



# COMPLAINTS MANAGEMENT POLICY

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## Purpose

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To provide direction and a framework for defining and categorising complaints and the system for dealing with complaints submitted or referred to Mosman Council. The keystones of this policy are to categorise complaints and conduct an internal review of complaints where complainants are dissatisfied with the initial contact with Council that provides satisfactory alternative means of redress for complainants.

This serves to ensure that the complaint is dealt with fairly and impartially and to strive to resolve disputes between the Council and complainants without the need for the complainant to make representations directly to external agencies such as the NSW Ombudsman, the Office of Local Government or the Independent Commission Against Corruption (ICAC). Referral to an external agency is viewed as an action of last resort.

People complain because they are unhappy with a decision, the level of service they have received, or the behaviour of councillors or staff. The feedback collected, properly reported, may itself be a catalyst for change and continuous improvement.

Nothing in this policy overrides the General Manager's obligation to report under Section 11 of the *Independent Commission Against Corruption Act 1988*.

This policy incorporates the essential features of an effective complaints management system as described in Practice Note No. 9 – Complaints Management in Councils, released by the Office of Local Government and NSW Ombudsman in July 2009. This policy should be read in conjunction with Practice Note No. 9 and other relevant policies and corporate practices of Council such as the Code of Conduct, Protected Disclosures Policy and Customer Response Corporate Practice.

## Scope

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Covers the management of complaints submitted or referred to Mosman Council.

## Guiding Principles

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Complaints and (accolades) are welcomed feedback by Council to assist in the planning process and the improvement of Council's policies, corporate practices and systems. Other guiding principles include:

- Customer focus
- Staff do not feel undervalued when management deals with the complainant in a 'customer-focused' way
- Complaints are an opportunity not a nuisance
- Complainants will be helped and supported to make complaints
- Redress will be provided for justified complaints

## Types of complaints and complainants

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Some types of complaint may need to be treated in special ways (eg complaints involving urgent public safety issues). If a complaint concerns corrupt conduct within Council it should be referred to the General Manager. The General Manager has a duty to report to ICAC any matter he suspects on reasonable grounds concerns or may concern corrupt conduct.

If a complaint involves allegations of criminal behaviour, it should automatically be referred to the Police. Special arrangements for keeping such complaints confidential may need to be

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implemented. Different types of complaints may simply need to be referred to special sections of the Council (eg complaints of financial impropriety may be referred to the internal auditor or the external auditor).

Complaints about staff members can also create special tensions and the application of Council's Code of Conduct or Protected Disclosures Policy will also need to be considered in the context of more serious complaints about staff. Council needs to welcome complaints while taking care that staff do not feel undervalued when management deals with the complainant in a 'customer-focused' way, even if the allegation is unproved.

Some people are less likely to make complaints. Council encourages feedback from all sections of the community through its web site, community consultation and engagement. Conversely, Councils may have to deal with complainants who act unreasonably or who place unreasonable demands on the Council. Council will respond to such circumstances in accordance with its Customer Response Corporate Practice.

### What is a complaint?

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A complaint is an expression of dissatisfaction with the Council's decisions, policies, procedures, charges, employees, agents or the quality of the services it provides. Dissatisfaction may arise from the service provided by Council staff, contractors and systems or from the impact of a particular policy, corporate practice or system. Particular behaviours displayed by staff or contractors may also give rise to a complaint.

A complaint for the purpose of this policy does not include matters not related to Council staff or Councillors or services provided by Council.

A complaint does not include:

- A request for Council services \*
- Reports of damaged or faulty infrastructure (eg. road pothole) \*
- Reports of hazards (eg. fallen tree branch) \*
- Reports concerning neighbours or neighbouring property (eg. noise or unauthorised building works)
- Representations on infringements issued
- Complaints that are unreasonable
- Feedback
- A request for documents, information or explanation of policies, corporate practice or process \*
- A request for Council to exercise a regulatory function \*
- A submission relating to the exercise of a regulatory function (eg. an objection to a development application or a submission on a policy)
- The lodging of an appeal or objection in accordance with a statutory process, corporate practice or policy (unless this is recorded as a complaint about the Council's decision making)
- Complaints not related to Council

\* (unless it is a second request or report, where there was no response to the first)

Requests for services or information, reports concerning Council's assets and activities, and the lodging of appeals to Council's decisions do not constitute a complaint, and should not be recorded as one.

Similarly, feedback does not constitute a complaint. Feedback is defined as opinions, comments and expressions of interest or concern, made directly or indirectly, explicitly or implicitly, to or about

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Council, Council services or complaint handling where a response is not explicitly or implicitly expected or legally required.

A valid complaint is one where Council would appear to have failed to respond appropriately to a request for service or a report, or where process has not been followed in accordance with policy, corporate practice or systems, or where behavioural issues have been displayed.

### Categories of complaints

Council categorises complaints received in order to better investigate, respond to and resolve issues raised by complainants. Complaints received by Council are categorised as follows:

Category 1	Complaint of a minor nature not involving behavioural issues that can be resolved upon first contact with minor investigation
Category 2	Complaint of a behavioural or systematic nature that requires investigation and development of a formal response
Category 3	Complaints of a more serious nature (including alleged corruption, maladministration, Code of Conduct and Protected Disclosures) that require investigation and involvement of Council's Complaints Coordinator for the formal written response; or where the complaint needs to be referred to an external agency; or where the complainant is not satisfied with response provided at Category 2 and has requested an internal review

Council value adds from this process by exploiting continuous improvement opportunities through better identification of any adjustments required to its policies, corporate practices or systems together with any other actions considered appropriate. Analysis of this data assists in identifying any areas of concerns or trends. Actions taken by Council in response to the investigation and resolution of a complaint may include:

- Staff training
- Staff counselling
- Policy review
- Corporate Practice review
- Systems, procedures and protocols review
- Form/documentation/web content review
- Other (specify)

### Procedure for lodging a complaint

Any person has a right to lodge a complaint. Complaints may be lodged with Council in any manner, be it verbally (except for a request for an internal review), in writing or electronically.

Details including the name, address and contact phone numbers and email address of the complainant together with a brief description of the problem should be included.

Council encourages feedback and provides ready access through its 'Contact us' section of its web site for the public to make a:

- request, comment or enquiry
- complaint against Council, Council staff or Councillors
- response to an item of Community Consultation

Persons wishing to lodge a complaint on-line may go to: <http://www.mosman.nsw.gov.au/contact>

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Comments made on social media that may constitute a complaint do not fall under this Policy. Any negative comment or serious matter published on social media will be monitored and directed to appropriate senior staff to deal with in accordance with Council's Social Media Policy.

Council provides access to this Policy on its web site and at Council's offices.

Any staff member may receive a complaint and must follow the procedures set out in this Policy.

Any Councillor in receipt of a complaint should (preferably in writing) refer the matter directly to the General Manager, relevant Director or Public Officer.

Contractors working on behalf of Council must refer all complaints received by them regarding any aspect of Council's operations or their work to the Council Officer responsible for the administration of that specific contract. This Council officer will be responsible for handling the complaint and must also keep the Public Officer informed of receipt and outcome.

### The Public Officer

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Council's Public Officer is charged under the *Local Government Act 1993* with the responsibility of dealing with complaints from the public concerning Council's affairs. Council's Director Corporate Services holds the position of Public Officer and can be contacted at Council's Civic Centre on 9978 4000.

### Complaints that will not be investigated

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The Public Officer may determine that a complaint will not be investigated where that complaint:

- is considered unreasonable
- involves a matter where an adequate remedy or right of appeal already exists, whether or not the complainant uses the remedy or right of appeal
- relates to a decision of Council
- relates to conduct before a court, coroner or tribunal
- relates to matters under investigation by the Office of Local Government, ICAC, the NSW Ombudsman's office, a Minister of the Crown or government department or the NSW Police Force
- relates to the appointment or dismissal of any employee or an industrial or disciplinary issue
- relates to a decision, recommendation, act or omission which is more than one year old
- relates to a matter awaiting determination by the Council
- relates to the actions or conduct of private individuals
- relates to a matter where there is insufficient information available
- involves a matter where the complainant declines or refuses to provide further information and/or there are threats made against Council

Should the Public Officer determine that a complaint will not be investigated, the complainant will be advised of the reason for this decision.

### Unreasonable complaints

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Unreasonable complaints are complaints that are considered to be of a frivolous, vexatious, trivial or immaterial nature and include complaints that are not made in good faith or are made in retaliation for a Council decision or action. Such complaints contain no substance or evidence and do not:

- raise any issues which require Council's attention
- identify any deficiencies in the operation of a Council service or system

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- identify any systemic or behavioural issues
- have any means of redress, remedy or resolution

Minor complaints are not unreasonable complaints.

### Anonymous complaints

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The Public Officer will determine whether an anonymous complaint will be investigated dependent upon the seriousness of the complaint and provided there is sufficient information in the complaint to enable an investigation to be conducted, or whether there is a statutory requirement for identification of the complainant.

### Serious complaints

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All complaints, including those received verbally or anonymously, alleging corrupt conduct, pecuniary interest breaches, improper use of position, criminal action, maladministration or government information contravention are to be registered as detailed in the Procedures section of this Policy and referred to the Public Officer or General Manager. If the allegation relates to the General Manager, the matter must be reported to the Public Officer or Mayor. If the allegation relates to the Public Officer, the matter must be reported to the General Manager.

Complaints of this nature will be dealt with in accordance with Council's separate policies such as the Code of Conduct and Public Interest Disclosures Policy. Practice Note No. 9 guidelines deal with Council's statutory obligations to refer complaints to external agencies and Council's statutory complaints handling obligations.

### Confidentiality

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Council will not disclose the identity of a complainant should the complainant request their details remain confidential.

Complaints, on Council's assessment to be a valid complaint under this policy, will be recorded in Council's document management system as a confidential document and will not be publicly available having regard to the *Government Information (Public Access) Act 2009* and *Privacy and Personal Information Protection Act 1998*.

## Complaints management system

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Council has adopted a three-tier complaint management system involving:

### Tier 1 - Frontline complaint management

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Staff are authorised with clear delegations to resolve complaints wherever possible at first contact. Frontline staff will register all complaints and attempt resolution or referral to an appropriate person or agency to deal with (in the case of Code of Conduct, public interest disclosures, allegations of corrupt conduct issues and the like). Staff will record the resolution/action taken for later analysis.

### Tier 2 - Internal review or investigation

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If a complainant is still dissatisfied, the complaint is reviewed or investigated by the Public Officer or a senior officer designated by the Public Officer or General Manager or an external reviewer where appropriate, and the results of the review are reported to the complainant.



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If the complainant remains dissatisfied, further consideration should be given to options that may be available to achieve a settlement. This may include conciliation, mediation, or further direct negotiations over remedying the grievance.

### Tier 3 – External review

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If the complaint cannot be resolved within Council, the complainant is referred to an outside agency. This may take the form of:

- Alternative dispute resolution procedure, such as mediation or conciliation.
- Complaint referred to external agency, such as the Ombudsman, Office of Local Government or Information and Privacy Commission.
- Complainant informed of appeal procedure or other legal remedy.

Where the complaint concerns or may concern corrupt conduct, it will be reported to ICAC at the first-tier stage.

## Complaints management procedure

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### Tier 1 – Frontline Complaint Management - Registration

- Any staff member approached by persons enquiring how to lodge a complaint must advise that person of the methods available. There is no need to record the enquiry. A record is only made when the complaint is lodged regardless of how minor the complaint may be.
- Upon receipt of a complaint, the staff member receiving the complaint must ensure that the complaint is registered in Council's records management system ("ECM") under the Complaints classification and linked to the subject Formal Complaints, so that all matters are reviewed by the Public Officer.
- Any verbal complaint should be recorded in full detail as a Customer Request in ECM.
- Any written complaint in the form of a letter or facsimile must be referred to Records to be registered in ECM.
- Any electronic complaint (email, facsimile or submitted via the Council's web site) must be registered by Records if sent to the corporate mailbox or by the officer receiving the email if sent to an individual officer's mailbox.
- Upon receipt of a written complaint, the Public Officer or officer designated by the Public Officer shall forward a letter of acknowledgement of receipt and course of action to be taken only if the matter is unable to be responded to within 10 working days.

### Tier 1 – Complaint resolved following investigation

All staff are authorised to deal with and resolve a complaint including taking appropriate remedial action. Staff (and Councillors) receive a briefing on Council's Complaints Management Policy as part of the induction process. Clear delegations are issued that if the complaint cannot be resolved on the spot or is of a serious nature that it be referred to a senior staff member to be investigated.

- A staff member receiving a verbal complaint of a minor nature, should deal with the complaint at that time or refer it immediately to the appropriate staff member who may be able to resolve the problem on the spot. The staff member who resolves the complaint should immediately register the complaint and resolution in ECM.



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- All complaints of a more serious or complex nature or other minor verbal complaints that cannot be resolved on the spot must be registered in ECM in accordance with the workflow procedure for complaints and referred to the relevant Manager or Director for investigation, action and a response to the complainant.
- The complaint is also referred to the Public Officer as part of the workflow process so that complaints may be monitored and followed up as necessary.
- The Public Officer will determine if a complaint should have been lodged with an external agency or authority and will contact the complainant to refer that person to the appropriate agency or authority. If the complaint is to be dealt with by Council staff, the Public Officer will ensure that it has been referred to the appropriate officer designated the task by the Public Officer. This will normally be a Manager or Director (the “reviewing/investigating or responsible officer”).
- The reviewing/investigating or responsible officer investigating the complaint will determine what, if any, remedial action will be taken and must ensure that all details of the investigation and remedial action taken or offered to the complainant and the subsequent response to the complainant are reported in ECM and related to the original complaint registration. The reviewing/investigating or responsible officer is responsible for preparing the formal response letter to the complainant.
- The report should also indicate when and how the result of the investigation was communicated to the complainant that is by phone, in person or by letter.
- Where a Manager has conducted the investigation, the formal response letter to the complainant must be referred to the relevant Director for information purposes.
- The formal response letter must then be referred to the Public Officer for review to ensure the investigation and remedial action taken or offered in response to the complaint is satisfactory.
- The reviewing/investigating or responsible officer shall forward the formal response letter to the complainant advising of the result of the investigation, any action taken and of the right to an internal review. The formal response letter must include the following statement:

*Your complaint has been dealt with in accordance with Council’s Complaints Management Policy. Should you be dissatisfied with the outcome you may write to the General Manager within 28 days of this letter stating the reasons why the complaint has not been dealt with satisfactorily and seek an internal review. Alternatively, you may seek an external review by referring your complaint directly to the NSW Ombudsman.*

- Consistent with Council’s Customer Service Charter, this process must be completed within 10 working days of receipt of the complaint, excepting where further information is waiting to be received. Where this is not possible, complainants will be kept fully informed of progress in their matter.

### **Tier 2 - Unresolved complaint referred for internal review**

Complaints that have not been resolved to the satisfaction of the complainant following completion of the Tier 1 procedure, will be then subject to internal review to provide a satisfactory alternative means of redress for the complainant. A Council officer upon being advised by the complainant that the complaint has not been dealt with satisfactorily must refer the matter to the Public Officer who will advise the complainant that the matter has been referred for internal review. Requests from complainants for an internal review must:

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- be in writing
- state the reasons why the complaint has not been dealt with satisfactorily
- be received within 28 days after the notice (the formal response letter) is given (or within 49 days of the receipt of the complaint where Council has failed to give notice (the formal response letter))

A Tier 2 internal review may also be instigated by a direct referral of a complaint from the NSW Ombudsman. A copy of the results of a review of such a complaint will be provided to the Ombudsman.

The internal review will be conducted by the Public Officer or a senior officer designated by the Public Officer or General Manager to review and investigate the unresolved complaint, with the focus being on resolving the complaint wherever possible. If for any reason (including but not limited to conflict of interest or perceived bias) the General Manager considers that a Tier 2 Internal Review should be carried out by an external reviewer then the review should be carried out by a member of the Council's Conduct Review Committee or a Conduct Review Panel member nominated by the General Manager.

The Public Officer or designated senior officer or external reviewer will have the delegation to:

- reconsider the original decision or remedial action afresh and take any appropriate corrective action.
- overturn previous decisions and apply remedies as considered necessary
- apply appropriate redress in cases where the review reveals maladministration or detriment arising from the Council's dealing with the complainant.

The internal review must be conducted within 10 working days of referral of the matter in writing to the Public Officer. Where this is not possible, complainants will be kept fully informed of progress in their matter.

The results of the review must be communicated directly to the complainant (with a copy being provided to the Ombudsman as part of the Ombudsman's complaint referral program where the complaint has been referred from that agency). The response to the complainant must be accurate, comprehensive and deal with all the issues articulated in the complaint.

Where the complaint has been referred to Council by the Ombudsman, the Ombudsman will monitor the reply and intervene if it is considered Council failed to address and/or resolve the complaint satisfactorily. The complainant however may make further complaint directly to the Ombudsman.

The Public Officer or designated senior officer or external reviewer shall forward a letter to the complainant advising of the result of the review, any action taken and of the right to access dispute resolution procedures or an external review.

### **Tier 3 – External review**

Should a complaint and subsequent review not be resolved to the satisfaction of the complainant, the Public Officer may determine to offer a dispute resolution procedure, such as mediation or conciliation. Should an appeal procedure or other legal remedy exist, the Public Officer will advise the complainant accordingly.

Alternatively, the Public Officer will advise the complainant that the complaint may be referred to an external agency for review. Complaints, dependent on their nature, can be referred to the following external agencies for an external review:

<b>External Agency</b>	<b>Nature of complaint</b>
<p><b>The NSW Ombudsman</b>  Level 24, 580 George Street  Sydney NSW 2000  Phone: 02 9286 1000  Facsimile: 9283 2911  Email: <a href="mailto:nswombo@ombo.nsw.gov.au">nswombo@ombo.nsw.gov.au</a></p>	Matters concerning maladministration or related to child abuse
<p><b>Office of Local Government</b>  5 O'Keeffe Avenue,  NOWRA NSW 2541  (Locked Bag 3015  NOWRA NSW 2541)  Phone: 4428 4100  Facsimile: 4428 4199  Email: <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a></p>	Matters concerning a serious breakdown in Council's operations, if the Council as a whole is not operating satisfactorily or pecuniary interest matters
<p><b>The Independent Commission Against Corruption</b>  Level 7, 255 Elizabeth Street  Sydney NSW 2000  (GPO Box 500  SYDNEY NSW 2001)  Phone: 8281 5999  Toll free: 1800 463 909  Facsimile: 9264 5364  Email: <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a></p>	Matters concerning corrupt conduct, which is defined as dishonest or partial exercise of any official functions by a public official. The ICAC Act requires the General Manager to report suspected cases of corrupt conduct to ICAC
<p><b>Anti-Discrimination Board</b>  Level 7 / 10 Valentine Avenue  PARRAMATTA NSW 2150  (PO Box W213, PARRAMATTA WESTFIELD NSW 2150)  Phone: 9268 5555 or  Facsimile: 9268 5500  Email: <a href="mailto:complaintsadb@justice.nsw.gov.au">complaintsadb@justice.nsw.gov.au</a></p>	Matters in relation to discrimination, disability and harassment
<p><b>Australian Competition and Consumer Commission</b>  Level 20  175 Pitt Street  SYDNEY NSW 2000  (GPO Box 3648, SYDNEY NSW 2001)  Phone: 9230 9133  Fax: 9232 1092</p>	Competitive neutrality complaints
<p><b>Information and Privacy Commission</b>  Level 17, 201 Elizabeth Street,  SYDNEY NSW 2000  (GPO Box 7011 SYDNEY NSW 2001)  Phone: 1800 472 679  Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a></p>	Breaches of the <i>Privacy and Personal Information Protection Act 1998</i> and <i>government information contraventions</i>

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### Procedure for dealing with complaints against Councillors

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The procedure for dealing with complaints against Councillors is provided for in Council's Code of Conduct and Protected Disclosures Policy.

### Managing unreasonable conduct by complainants

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Complainants sometimes become angry or upset because of either a real or perceived error by the Council or out of frustration with their dealings with Council. However, some complainants exhibit challenging behaviour that can be categorised as unreasonable:

- persistence
- demands
- lack of cooperation
- arguments
- behaviours

For conduct to be unreasonable, it must go beyond the norm of situational stress that many complainants experience, such as becoming angry, being demanding or persistent. Practice Note No. 9 gives examples of unreasonable complainant conduct and strategies for dealing with such conduct.

Council's Customer Response Corporate Practice specifies responses to customers relating to demands placed upon Council staff and resources. It includes options for redress for the Council and identifies limits on services from and communications with Council in such instances. These administrative controls on unreasonable conduct by complainants include restricting, withholding or withdrawing services or access.

### Reporting of results

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Complaints together with the results of review and investigation of complaints handled under this policy are to be registered by the reviewing/investigating or responsible officer in ECM under the subject 'Formal Complaints'.

The receipt of the complaint together with details of the complaint response and any actions arising together with statistics will be recorded in the Complaints Register by the Public Officer for review by the Executive team and to facilitate monitoring and review by the Executive and performance reporting in the quarterly and annual review of Council's Management Plan, MOSPLAN included in the Council's Annual Report.

The Complaints Register for each financial year will be reported annually to Council for review.

### Related Information/Glossary

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Code of Conduct

Customer Response Corporate Practice

Customer Service Charter

Protected Disclosures Policy

Social Media Policy

[Practice Note No. 9 – Complaints Management in Councils, released by the Office of Local Government and NSW Ombudsman in July 2009](#)

## Complaints Management Policy

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### Review

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This policy will be reviewed every four years unless otherwise directed by the Executive team.

### Contact

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Enquiries should be directed to the Manager Governance on 9978 4010.

### Amendments

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<b>Date</b>	<b>Amendment</b>	<b>Reference</b>
8 July 2003	Adopted	PF/128
24 June 2009	Minor amendment to Cl. 5.2.11 (Tier 1 – following investigation) and Cl. 5.3.4 (Tier 2 – Internal Review) to clarify number of days and that complainants will be kept informed.	Memo DW Doc No. 2112824
1 September 2009	Review pursuant to DLG circular 09-29 and Practice Note No. 9 – Complaints Management in Councils.	CS/52
2 February 2010	Amendments to Section 5.3 in relation to the Ombudsman’s complaints referral program and the advice given to complainants in determinations of internal reviews.	CS/3
6 February 2018	Review and update.	CS/9
7 August 2018	Review and update to address recommendations of the Internal Audit report on Complaints Management dated May 2018	CS/28