



CUMBERLAND
CITY COUNCIL

Compliments and Complaints Management Guidelines

AUTHORISATION & VERSION CONTROL

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1. Introduction

Cumberland City Council is committed to providing excellent customer service to the community. Council recognises that a proactive feedback management approach and effective complaints management system are vital in enabling the capturing and actioning of customer feedback. Council encourages and values all customer feedback as it assists with the ongoing review and improvement of service delivery.

The *Compliments and Complaints Management Guideline* is part of Council's Governance Framework and ensures that mechanisms are in place to protect the integrity, good governance, security and reputation of Council.

2. Guideline Objectives

The objectives of this guideline are to define Council's *Compliments and Complaints Management Policy* and framework in detail and provide further guidance to staff and the community.

3. Compliments and Complaints

3.1 What is a Compliment?

A compliment is an expression of praise or regard for service received or performance delivered by Council or its staff.

3.2 What is a Complaint?

A complaint is an expression of dissatisfaction with the level or quality of the service provided by Cumberland City Council. This includes dissatisfaction with the outcome of a decision, level or quality of service, the failure to adhere to a policy or procedure; or, the behaviour of an employee or agent, which can be investigated and acted upon. A complaint is not a routine service request for action or an enquiry about the progress of a matter.

3.3 Complaints that may not be investigated

Council may determine that a complaint will not be investigated where that complaint:

- Is considered frivolous, vexatious or not made in good faith or concerns a trivial matter;
- Is already lodged and is under review with Council as a complaint by the same complainant;
- Relates to the employment of Council staff (performance and disciplinary matters);
- Relates to the actions or conduct between individuals in a private matter;
- Involves threats made against Council. Any threats made against Council will be reported to the relevant authorities at the first instance;
- Is outside Council's jurisdiction.

3.4 Anonymous Complaints

Council will record anonymous complaints and act when there is sufficient information provided at the time the complaint is lodged. Council may be unable to validate a complaint or seek further information to progress a complaint when the source of the complaint is unknown. Anonymous complaints therefore may not be investigated. Council encourages complainants to provide their full contact information when lodging complaints.

3.5 Confidentiality of Complainant

The NSW Ombudsman's *Effective Complaint Handling Guidelines – 3rd Edition* state in relation to collecting information about complaints (clause 7.1, page 32):

"The confidentiality to be accorded to complainants and complaints should also be considered. In particular, personally identifiable information about any individual should only be disclosed or used in compliance with all relevant privacy laws and ethical obligations."

In relation to review at the second tier by the Internal Ombudsman Shared Service, the *Internal Ombudsman Shared Service Governance Charter* deals with confidentiality at clause 8. Furthermore, the NSW Ombudsman's Guidelines state at page 11:

“The nature and scope of an investigation undertaken in response to a complaint will depend on the circumstances of the case and any relevant statutory and policy requirements that may apply. Those responsible for conducting investigations need to remember to:

- *act reasonably and impartially*
- *ensure confidentiality*
- *avoid and manage conflicts of interests*
- *provide appropriate procedural fairness.*

For more information on conducting an investigation into allegations raised within a complaint, see Section 4 – Handling individual complaints.”

3.6 Criminal Activity Complaints

Complaints in relation to alleged criminal activity will be referred to the relevant law enforcement body.

3.7 Breach of Privacy Complaints

Complaints alleging a breach of privacy will be handled in accordance with the provisions of the *Privacy and Personal Information Protection Act*, *Health Records Information Privacy Act*, and Council’s *Privacy Management Plan*.

4. Managing Unreasonable Complainant Conduct

Council will use the NSW Ombudsman’s *Managing Unreasonable Complainant Conduct Practice Manual* as a guide for both identifying unreasonable conduct and establishing strategies to address that conduct.

Unreasonable conduct by complainants has the potential to pose significant demands on resources and create inequity in the way that resources are distributed.

The NSW Ombudsman has identified five distinct kinds of unreasonable conduct. These include:

- **Unreasonable persistence:** This includes complainants persisting with their issues even though they have been dealt with to finality, refusing to accept final decisions and sending excessive amounts of correspondence.
- **Unreasonable demands:** This includes complainants insisting on outcomes that are unattainable, moving the goal posts or demanding to have their complaints dealt with in particular ways.
- **Unreasonable lack of cooperation:** This includes complainants providing disorganised, excessive or irrelevant information, being unwilling to consider other valid viewpoints, or refusing to define their issues of complaint when they are capable of doing so.
- **Unreasonable behaviour:** This includes extreme anger, aggression, threats or other threatening or violent conduct.
- **Unreasonable arguments:** This includes complainants seeing cause and effect arguments where there are clearly none, holding conspiracy theories unsupported by evidence, and irrationally interpreting facts or laws and refusing to accept other more reasonable interpretations.

4.1 Abusive or Threatening Behaviour

Abusive or threatening complainant conduct limits Council’s capacity to resolve a complainant’s concerns and service the community effectively.

Staff are encouraged where possible to provide two verbal warnings to complainants exhibiting abusive or threatening behaviour. On the third instance, staff will advise the complainant that they are terminating communication and will not discuss the matter further. Should Council staff feel threatened by the language or behaviour of the complainant, the matter will be referred to the NSW Police.

Details of ongoing abusive or threatening behaviour will be provided by Council staff to the General Manager or their delegate. The General Manager may determine that access to the

Council and to Council officers is to be restricted or revoked for a period of time. This will be confirmed in writing to the complainant where possible and a further review date will be set to ensure this process is fair.

4.2 Determining Unreasonable Complainant Conduct

The General Manager or their nominated delegate is authorised to determine whether to restrict, withhold or withdraw the provision of services to a complainant who is behaving unreasonably. In making any such determination, the General Manager or their delegate will have regard to the circumstances of the particular case which may include the following considerations:

- Has the complaints process been correctly implemented as far as possible to this point and no material element of the complaint been overlooked or inadequately addressed?
- Has the complainant demonstrated one or more of the behaviours identified as unreasonable complainant conduct in this policy?
- Does the behaviour constitute an unreasonable demand on Council's resources or does Council have an obligation to protect its staff from that behaviour?
- Does the decision recognise that the public have a right of access to Council to seek advice, have a statutory right of access to inspect Council documents and make certain complaints, are entitled to seek to raise their concerns with the elected representatives?
- Does the decision recognise that nobody, no matter how much time and effort is taken up in responding to his or her complaints or concerns, should be unconditionally deprived of the right to have those concerns addressed?

4.3 Strategies for Dealing with Unreasonable Complainant Conduct

The General Manager or their delegate will consider instances of unreasonable complainant conduct and may authorise limitations or adaptations for the complainant's future interactions with Council. This may include:

- **Who the customer can contact within Council:** Where a complainant demonstrates excessive persistence or demands, Council may restrict their communication to a dedicated member of staff. This staff member will exclusively manage the complainant and any future complaint(s) and interactions with Council. This will ensure a consistent approach to complaint handling.
- **What issues they can raise with Council:** If a matter has been comprehensively reviewed and unreasonable complainant conduct continues, Council may place restrictions on the complainant raising the same matter in future.
- **When/where and/or how the customer is able to make contact with Council:** A complainant's unreasonable and persistent telephone, face-to-face or written contact with Council including emails, may place an unreasonable demand on time or resources and impact on the health and well-being of staff. Council may limit when/where and/or how the complainant can interact with Council.

If the General Manager or their delegate determines that limitations are to be placed on the ability of a complainant to access Council services and staff, the complainant will be given prior notice in writing of the grounds on which the limitation is being imposed and the nature and duration of the restrictions being imposed, including review period. The person the restrictions are to be placed on will be given an opportunity to respond, and Council will consider that response before deciding to limit access. If limitations are imposed, there will be a defined period for the limitations to be in place, with a review towards the end of this period to determine if the limitations should be removed.

5. Complaint Handling Three Tier Model

Council has adopted a three tiered approach to handling complaints through this guideline. This approach aims to have complaints responded to and resolved as quickly and as fairly as possible. The following outlines the three tiered approach:

Tier 1: Frontline Complaints Management

Registration and assignment of the complaint to the Complaints & Feedback Coordinator, who will investigate with the responsible Council supervisor to achieve a prompt resolution. If the complaint relates to the actions or level of service of a Council officer, the complaint will be referred to the officer's immediate supervisor. Complaints about corrupt conduct are to be immediately referred to the General Manager's office or the Internal Ombudsman Shared Service.

Tier 2: Internal Ombudsman Share Service Review

If a complainant remains dissatisfied from a Tier 1 Complaints Management outcome, their complaint may be reviewed and/or investigated by Council's Internal Ombudsman Shared Service. The outcome of the review will be communicated to the complainant. Other complaint types may immediately be referred to Tier 2 as outlined in the Complaints Management Policy.

Tier 3: External Review

Where a complainant remains dissatisfied with Council's Tier 2 – Internal Review process or for certain complaint types as outlined in the Complaints Management Policy, Council may refer the complainant to an external review agency such as:

- the NSW Ombudsman
- the NSW Office of Local Government

6. Resolving Complaints

When lodging a complaint, customers are encouraged to advise Council what action(s) they would like undertaken to resolve their complaint. Council will take this into consideration when investigating a complaint.

6.1 Responding to Compliments and Complaints

All compliments and complaints will be acknowledged by way of written correspondence within 3 working days of Council receiving the compliment or complaint. Council will aim to ensure that complaints are resolved within 15 working days. Where the nature of the complaint requires investigation or a more complex response, the complainant will be advised within the 15 working day timeframe of the anticipated timeframe for response and the Council officer who will be their direct contact during the process.

Where a complaint is not clearly identified as a complaint, meeting these deadlines may not be possible. To ensure that complaints are directed correctly, written complaints should be clearly and immediately identified as such.

6.2 Finalisation of Complaints

All complaints will receive a final response in writing. The final response will include a brief summary of the facts, the findings and reasons for the decision. This response will also include details of what avenues are available to the complainant in terms of further review, such as a

review by the Internal Ombudsman Shared Service of complaints within jurisdiction. Resolutions that may be available may include:

- An apology by Council where Council has made a mistake, or where the actions of a Council officer have caused offence;
- Delivery of the initial requested service(s) of the complainant;
- Clarification of Council's relevant policy or position on the matter;
- Refunding incorrectly charged fees/monies;
- Referral of the complaint to an external body (where Council cannot resolve the matter to the satisfaction of the complainant).

Following the finalisation of a complaint, the outcome will be reviewed to consider, for example, any implication for service/process improvement and identification of any systemic issue. Statistical information will be held for reporting purposes and to ensure accountability and transparency.

7. Complaints Requiring Alternate Complaint Handling Processes

Due to legislative or policy requirements, certain complaint types may need to be handled in a specific way. This may include the following complaint types:

7.1 Alleged Corrupt Conduct

Complaints alleging corrupt conduct (as defined by sections 7, 8 and 9 of the *Independent Commission Against Corruption Act 1988*) will be referred immediately to the General Manager or the Internal Ombudsman Shared Service. Should the General Manager or Internal Ombudsman suspect on reasonable grounds that a complaint involves corrupt conduct, the General Manager has an obligation to report the matter to the ICAC.

7.2 Public Interest Disclosures

Public Interest Disclosure is a complaint made by public officials about Council officers made under the *Public Interest Disclosures Act 1994*. The *Public Interest Disclosures Act 1994* (PID Act) sets in place a system to encourage public officials to report serious wrongdoing. For more information, Council has an adopted *Public Interest Disclosures Policy*.

7.3 Code of Conduct Complaints

Council has an endorsed *Code of Conduct* applicable to Councillors, staff and delegates of Council. A copy of the *Code of Conduct* is available on Council's website. Any allegations of *Code of Conduct* breaches by a Councillor, staff member or delegate of Council will be handled in accordance with the procedures prescribed under the *Code of Conduct*.

Council staff and Councillors receive regular training in relation to their obligations and responsibilities under the *Code of Conduct*.

7.4 Complaints regarding the General Manager

Complaints regarding the General Manager will be referred to the Mayor in the first instance.

7.5 Child Protection Complaints

Child protection is everybody's business. Cumberland City Council is committed to the care and protection of children and young people.

Allegations against staff: Complaints and allegations against staff involving a child or young person will be handled in accordance with the relevant legislation, specifically the *Children's Guardian Act 2019*, which mandates a specific approach to the handling and reporting of complaints about staff involving children and young people. All allegations in relation to staff involving children and young people will be immediately reported to the Internal Ombudsman Shared Service, via Council's triage team, who will in turn investigate or engage an external investigator and report the matter to the relevant oversight agency in accordance with Council's reporting obligations.

Mandatory reporting of risk of significant harm: If there are concerns that a child or young person is at risk of significant harm, certain staff are mandated to report these to the Child Protection Helpline. A tool will be used called the Mandatory Reporter Guide (MRG) to help

determine when and what should be reported. Anyone who suspects, on reasonable grounds, that a child or young person is at risk of being neglected or physically, sexually or emotionally abused, should report it immediately to their supervisor Council's triage team and to the NSW Family and Community Services (FACS) Child Protection Helpline PH:132 111. It does not mean that reporters are required to confirm their suspicions or provide solid proof before making a report. Reasonable grounds encompass whether another person, when faced with similar information, would also draw the same conclusion.

Selection and recruitment: Working With Children Check clearances are verified for relevant staff in order to gain employment. All concerns regarding selection and recruitment should be directed to Council's Complaints and Feedback Coordinator.

Child-safe organisation: Cumberland City Council promotes respect, fairness and consideration for all. Cumberland City Council supports children and young people having a safe and happy experience in our community, when accessing our facilities and when in our care. All concerns regarding the safety and wellbeing of children and young people should be directed to Council's Complaints and Feedback Coordinator.

7.6 Competitive Neutrality Matters

Competitive neutrality requires that government business activities should not enjoy any net competitive advantages simply by virtue of public sector ownership. This allows market competition to drive the efficient production of goods and services by the lowest cost business. Competitive neutrality complaints should be raised with the Executive Manager General Manager's Unit.

8. Monitoring and Reporting

All compliments and complaints received and related correspondence will be recorded in Council's Compliments and Complaints Register. The Executive Manager Customer Experience and Technology is responsible for the ongoing monitoring and reporting of tier 1 complaints. The Internal Ombudsman Shared Service is responsible for the ongoing monitoring and reporting of tier 2 and 3 complaints received and/or referred by the Office.

9. Contact Details for External Agencies

Agency	Nature of Complaint
Anti-Discrimination Board http://www.antidiscrimination.justice.nsw.gov.au/ Phone: (02) 9268 5544	Discrimination, disability and harassment
Australian Competition and Consumer Commission https://www.accc.gov.au/ Phone: 1300 302 502	Competitive neutrality
NSW Office of Local Government www.olg.nsw.gov.au Phone: (02) 4428 4100	Serious Council misconduct or pecuniary interest matters
NSW Ombudsman https://www.ombo.nsw.gov.au/ Phone: (02) 9286 1000 or 1800 451 524	Maladministration complaints and also the PID Unit in relation to Public Interest Disclosures
Office of the Children's Guardian https://www.kidsguardian.nsw.gov.au/ Phone: (02) 8219 3600	Child protection
Information and Privacy Commission NSW https://www.ipc.nsw.gov.au/ Phone: 1800 472 679	Breaches of the <i>Privacy and Personal Information Protection Act 1998</i> Breaches of the <i>Government Information (Public Access) Act 2009</i> (GIPA Act)
Independent Commission Against Corruption http://www.icac.nsw.gov.au/ Phone: (02) 8281 5999 or 1800 463 909	Matters concerning corrupt conduct. The General Manager is obligated to report suspected cases of corrupt conduct to the ICAC.

10. Related Documents, Legislation and References

10.1 Legislation

- [Local Government Act 1993](#)
- [Privacy and Personal Information Protection Act 1998](#)
- [Independent Commission Against Corruption Act 1988](#)
- [Ombudsman Act 1974](#)
- [Children's Guardian Act 2019](#)
- [Public Interest Disclosures Act 1994](#)
- [Government Information \(Public Access\) Act 2009](#)
- [Health Records and Information Privacy Act 2002](#)

10.2 Council Policies

- [Code of Conduct](#)
- *Compliments and Complaints Management Policy*
- [Procedures for the Administration of the Code of Conduct](#)
- [Public Interest Disclosures Policy](#)

10.3 Other Documents

- [Cumberland City Council Customer Service Standards](#)
- [Internal Ombudsman Shared Service Governance Charter](#)
- [NSW Ombudsman Managing Unreasonable Complainant Conduct \(2nd Ed –2012\)](#)
- [NSW Ombudsman Effective Complaint Handling Guidelines \(3rd Ed – Feb2017\)](#)