

PURPOSE	<p>To define complaints and the processes for handling complaints submitted or referred to the Mornington Peninsula Shire (the Shire).</p> <p>To provide the opportunity for a process of internal review of complaints where complainants are dissatisfied with a previous contact with the Shire and provides complainants with an alternative external means of redress should they remain dissatisfied.</p>
OBJECTIVES	<p>To ensure that a complaint is dealt with fairly and impartially and strives to resolve disputes between the Shire and complainants, without the need for the complainant to make representations directly to external agencies such as the, Independent Broad-Based Anti-Corruption Commission (IBAC), Victorian Ombudsman or Local Government Victoria. Referral to an external agency is viewed by the Shire as an action of last resort.</p> <p>Complaints (and accolades) are welcomed feedback by the Shire to assist in the improvement of the Shire's systems, procedures and policies.</p>
SCOPE	<p>Applies to all customers, staff and Councillors of the Shire.</p>
DEFINITIONS	<p>Councillors: Elected members to the Council of the Mornington Peninsula Shire in accordance with the relevant sections of the Local Government Act 1989 (as amended).</p> <p>Customer: Includes residents, ratepayers, members of the public or groups, visitors and businesses of the Shire.</p> <p>Internal Investigations Officer: The person holding the position of Manager Governance and Corporate Support with the Mornington Peninsula Shire.</p> <p>Staff: All staff of the Shire whether employed full time, part time or casual.</p>
POLICY	<p>What is a Complaint?</p> <p>A Complaint is an expression of dissatisfaction with the Shire's level and quality of service, policies or procedures. Dissatisfaction may arise from the service provided by staff, contractors or systems or from the impact of a particular policy or procedure.</p> <p>A complaint does not include:</p> <ul style="list-style-type: none"> • A request for services; • A request for information or explanation of policies or procedures or decisions of the Shire; • Reports of damaged or faulty infrastructure (e.g. road pothole); • Reports concerning neighbours or neighbouring property (e.g. noise or unauthorised building works);

POLICY (CONT'D)

What is a Complaint? (Cont'd)

- The lodging of an appeal in accordance with a Shire procedure or policy;
- Matters not related to Shire staff, Councillors or services provided by the Shire;
- Requests for services or information, reports concerning Shire assets and activities, and the lodging of appeals to Council's decisions; and/or
- Reports of hazards (e.g. fallen tree branch).

A valid complaint is one where the Shire would appear to have failed to respond appropriately to a request for service or not followed relevant policies or procedures.

Any complaints concerning alleged improper or corrupt conduct of Shire staff or Councillors should be considered and lodged in accordance with the Shire's Protected Disclosure Act (previously Whistleblowers Protection Act) Guidelines, available via the Shire's website or by phoning 1300 850 600.

Complaint Handling System

Council has adopted the following complaint handling management system.

Staff need to be aware of the various levels of complaint handling for all complaints received and take the responsibility of escalating complaints appropriately.

Level 1 – Frontline Complaint Handling

Councillors are encouraged to request that complainants contact the Shire in the first instance to lodge their complaint. Staff are empowered to resolve complaints wherever possible at first contact. Staff will register complaints and the resolution/action taken.

Level 2 – Internal Review – Operational

The Manager or Director responsible for the appropriate area will attempt to resolve the complaint by investigating the issue and providing a response to the complainant.

Level 3 – Internal Review

The Manager Governance and Corporate Support in the role of Internal Investigations Officer will review unresolved complaints. In certain circumstances, the Internal Investigations Officer may refer to an alternate officer such as a relevant Manager or Director to determine matters and/or review determinations.

<p>POLICY (CONT'D)</p>	<p>Complaint Handling System (Cont'd)</p> <p>Level 4 – External Review</p> <p>Complaints which remain unresolved may be referred by the complainant to an appropriate external agency. This may take the form of:</p> <ul style="list-style-type: none">• Complaint referred to external agency, such as IBAC, the Office of Ombudsman Victoria or Local Government Victoria; or• Complainant informed of appeal procedure or other legal remedy. <p>Alternative methods of dispute resolution may also be considered, such as mediation or conciliation.</p> <p>Lodging a Complaint</p> <p>Complaints may be lodged with the Shire:</p> <ul style="list-style-type: none">• In person;• By telephone;• By facsimile;• By e-mail; and/or• By letter. <p>The complaint should detail the name, address and contact phone numbers of the complainant together with a brief description of the issue.</p> <p>Any staff member may receive a complaint and must follow the procedures set out in this policy.</p> <p>Any Councillor in receipt of a complaint should (preferably in writing) refer the matter directly to the relevant Manager, Director or Manager Governance and Corporate Support.</p> <p>Internal Investigations Officer</p> <p>The Shire's Internal Investigations Officer, is charged with the responsibility of dealing with complaints from the public concerning the Shire's affairs. The Shire's Manager Governance and Corporate Support holds the position of Internal Investigations Officer and can be contacted at the Shire's Rosebud Office on 1300 850 600.</p> <p>Complaints that will not be Investigated</p> <p>The Internal Investigations Officer may determine that a complaint will not be investigated where that complaint:</p> <ul style="list-style-type: none">• Is considered frivolous, trivial, vexatious or not made in good faith;• 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;
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<p>POLICY (CONT'D)</p>	<p>Complaints that will not be Investigated (Cont'd)</p> <ul style="list-style-type: none"> • Relates to conduct before a court, coroner or tribunal; • Relates to matters under investigation by the Minister for Local Government, the Victorian Ombudsman's Office, a Minister of the Crown or government department or the Victoria Police; • Relates to the appointment or dismissal of any staff member 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 violent threats made against Shire staff or Councillors; and/or • Relates to a matter where Statutory Legislation review processes exist, including the CFA Act, Building Act and Infringement Act. Shire staff will inform the customer, in writing where other review processes exist. <p>Should the Internal Investigations Officer determine that a complaint will not be investigated, the complainant will be advised of the reason for the decision.</p> <p>Anonymous Complaints</p> <p>The Internal Investigations Officer or relevant Manager 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.</p> <p>Serious Complaints</p> <p>All complaints, including those received verbally or anonymously, alleging corrupt conduct, pecuniary interest breaches, improper use of position, criminal action or maladministration are to be registered as detailed in the Procedures section of this policy and referred to the Internal Investigations Officer or Chief Executive Officer (CEO). If the allegation relates to the CEO, the matter must be reported to the Internal Investigations Officer or Mayor. If the allegation relates to the Manager Governance and Corporate Support, the matter must be reported to the Director, Sustainable Organisation.</p>
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<p>PROCEDURE</p>	<p>Serious Complaints (Cont'd)</p> <p>Complaints of this nature will be dealt with in accordance with the Shire's separate policies such as the Councillors Code of Conduct, Staff Code of Conduct, Protected Disclosure Act or Local Government Act.</p> <p>Confidentiality</p> <p>The Shire will use its best efforts not to disclose the identity of a complainant should the complainant request their details remain confidential or if the complaint is considered in accordance with the Protected Disclosure Act.</p> <p>Level 1 – Frontline Complaint Handling</p> <p>Staff 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.</p> <p>Complaints of a more serious or complex nature should be referred to a Team Leader, Manager or Director to determine if the complaint should be assessed as a Level 2 complaint and considered by a senior officer.</p> <p>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.</p> <p>Upon receipt of a complaint, the staff member must ensure that the complaint is registered in the Shire's Records Management System (currently Objective) or Customer Request System (currently Merit) under the Complaints classification.</p> <p>Any verbal complaint should be recorded in full detail as a Customer Request in Merit (the Customer Request System).</p> <p>Any written complaint in the form of a letter or facsimile must be referred to Records Management to be registered in the Records Management System.</p> <p>Any electronic complaint (e-mail) must be registered by Records Management if sent to the Shire's corporate email address or by the officer receiving the e-mail if sent to an individual officer's mailbox.</p> <p>Upon receipt of a written complaint, the relevant officer shall forward a letter of acknowledgement (within 12 working days) of receipt advising of the course of action to be taken, unless a full response can be provided within the 12 working day period.</p>
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<p>PROCEDURE (CONT'D)</p>	<p>Level 1 – Frontline Complaint Handling (Cont'd)</p> <p>The corporate record should indicate when and how the result of the investigation was communicated to the complainant; that is by phone, in person or by letter.</p> <p>Level 2 – Internal Review – Operational</p> <p>The same internal processes apply for Level 2 complaints as per Level 1 complaints in that the complaint must be recorded and actioned appropriately and within the 12 working day period.</p> <p>Level 2 complaints however are to be considered by a Manager or Director depending upon who responded to the original complaint. This additional level provides customers with the confidence that their complaint has been considered by a different person, holding a position that is superior to the original decision maker.</p> <p>Level 3 – Internal Review</p> <p>The same internal processes apply for Level 3 complaints as per Level 1 and 2 complaints in that the complaint must be recorded and actioned appropriately and within the 12 working day period.</p> <p>Complaints that have not been resolved to the satisfaction of the complainant following completion of the Level 1 or Level 2 procedure, should then be forwarded to the Internal Investigations Officer to conduct an internal review of previous actions regarding the complaint. This additional level of complaint handling provides an alternative means of address for the complainant. The Internal Investigations Officer will advise the complainant that the matter has been referred for internal review.</p> <p>The internal review will be conducted by the Internal Investigations Officer or a senior officer designated by the Internal Investigations Officer or Director Sustainable Organisation to review and investigate the unresolved complaint, with the focus being on resolving the complaint wherever possible.</p> <p>The Internal Investigations Officer must be notified of any assessments made regarding a Level 3 complaint if considered by an officer other than the Internal Investigations Officer.</p> <p>The Internal Investigations Officer or designated senior officer will have the authority to:</p> <ul style="list-style-type: none">• Reconsider the original decision or remedial action afresh and take any appropriate corrective action;• Overturn previous decisions and apply remedies as considered necessary;
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<p>PROCEDURE (CONT'D)</p>	<p>Level 3 – Internal Review (Cont'd)</p> <ul style="list-style-type: none">• Apply appropriate redress in cases where the review reveals maladministration or detriment arising from Council's dealing with the complainant; or• Determine that the original decision was the correct and appropriate decision. <p>The internal review must commence within ten working days of referral of the matter in writing to the Internal Investigations Officer.</p> <p>The results of the review must be communicated directly to the complainant, with every endeavour made to complete the review within 20 working days.</p> <p>The Internal Investigations Officer shall forward a letter to the complainant advising of the result of the review, any action taken and any rights they may have to an external review.</p> <p>Level 4 – External Review</p> <p>Should a complaint and subsequent review not be resolved to the satisfaction of the complainant, the Internal Investigations Officer may determine to offer a dispute resolution procedure, such as mediation or conciliation. Should an appeal procedure or other legal remedy exist, the Internal Investigations Officer will advise the complainant accordingly.</p> <p>Alternatively, the Internal Investigations Officer will advise the complainant that the complaint may be referred to an external agency for review.</p> <p>External agencies are available to complainants at any stage in their complaint management process, however most agencies will request that the complainant initially aim to resolve their complaint primarily with the Shire.</p> <p>Complaints, dependent on their nature, can be referred to the following external agencies for an external review (refer the following page).</p> <p>Reporting of Results</p> <p>The Internal Investigations Officer shall maintain statistics of Level 3 and 4 complaints to allow performance monitoring and reporting.</p>
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PROCEDURE (CONT'D)	Level 4 – External Review (Cont'd)	
	External Agency	Nature of Complaint
	Independent Broad-Based Anti-Corruption Commission (IBAC) – Protected Disclosure Act	Matters concerning improper or corrupt conduct of a Shire officer or Councillor without fear of reprisal – please refer to the Shire’s Protected Disclosure Act (previously Whistleblowers Protection Act) Guidelines for further information.
	Victorian Ombudsman	General complaints against the Shire, including Shire officers, matters of maladministration and/or matters related to child abuse.
	Local Government Victoria	Matters of maladministration and serious breakdown in Shire operations, and matters of conflict of interest or pecuniary interest matters.
	Local Government Investigations and Compliance Inspectorate	The investigation team is responsible for investigating complaints of alleged breaches of the Local Government Act 1989.
	Privacy Victoria	Breaches of the Privacy and Personal Information Act 1998 and Information Privacy Act 2000.
	Freedom of Information Commissioner	Review of Freedom of Information decisions, complaint management and the monitoring of the Shire’s compliance with Freedom of Information legislation.
	Human Rights and Equal Opportunity Commission Victoria	Matters in relation to human rights charter, discrimination, disability and/or harassment.
	Australian Competition and Consumer Commission (ACCC)	Competitive neutrality complaints.

<p>PROCEDURE (CONT'D)</p>	<p>Procedures for Dealing with Complaints Against Councillors</p> <p>A complaint against a Councillor, that is not a complaint under the Protected Disclosure Act, is to be referred to the Mayor, CEO and the Manager Governance and Corporate Support for assessment.</p> <p>A complaint against the Mayor, that is not a complaint under the Protected Disclosure Act, is to be referred to the Deputy Mayor or the immediate past Mayor, CEO and the Manager Governance and Corporate Support for assessment.</p> <p>If the complaint is considered frivolous or vexatious, the Manager Governance and Corporate Support is to advise the complainant that it will not be investigated any further.</p> <p>If the complaint is not considered frivolous or vexatious, the Manager Governance and Corporate Support will investigate the matters raised in the complaint, requesting further information from the complainant if necessary.</p> <p>Providing the complaint is not a matter required to be reported to an external agency or a complaint required to be considered under the Protected Disclosure Act, the Councillor concerned is to be informed of the complaint and be requested to meet with the Mayor and Manager Governance and Corporate Support to discuss the matters raised in the complaint. The Councillor is to be informed of the actions taken to date and be provided with a copy of the complaint together with any supporting documentation provided by the complainant.</p> <p>The name of the complainant may be disclosed to the Councillor unless confidentiality has been requested by the complainant at the time of lodging the complaint.</p> <p>Reasonable opportunity should be allowed for the Councillor to consider the complaint and to respond to the allegations to the Manager Governance and Corporate Support. It is the Councillor's prerogative to determine if they require legal advice at their own expense in relation to that response.</p> <p>The Councillor's response should be received by a date stipulated by the Mayor and Manager Governance and Corporate Support, who will then consider the response, with the assistance of legal advice if required.</p>
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<p>PROCEDURE (CONT'D)</p>	<p>Procedures for Dealing with Complaints Against Councillors (Cont'd)</p> <p>Should the Mayor, CEO and/or Manager Governance and Corporate Support consider that the complaint is valid, the matter should then be considered in the context provided in the Councillor's Code of Conduct.</p> <p>Should the nature of the complaint involve improper or corrupt conduct, the matter must then be referred to the Minister for Local Government or Victorian Ombudsman (Whistleblower matters).</p> <p>The Manager Governance and Corporate Support shall forward a written response to the complainant in relation to the outcome of the investigation.</p> <p>Reporting of Results</p> <p>The Internal Investigations Officer shall maintain statistics of complaints against Councillors to allow performance monitoring and reporting.</p>
<p>RESPONSIBILITY</p>	<p>All Shire staff and Councillors.</p> <p>Manager Governance and Corporate Support/Internal Investigations Officer for reviewing and updating this policy as required.</p>
<p>RELATED POLICIES</p>	<ul style="list-style-type: none"> • Councillor Code of Conduct; • Staff Code of Conduct Policy; • Protected Disclosure Act (previously Whistleblowers Protection Act) Guidelines and Procedures; and • Managing Unreasonable Complainant Conduct Policy.
<p>RELATED LEGISLATION</p>	<ul style="list-style-type: none"> • Local Government Act 1989; • Protected Disclosure Act 2012; • Information Privacy Act 2000; and • Charter of Human Rights and Responsibilities Act 2006.
<p>REFERENCES</p>	<p>Nil.</p>
<p>REVIEW</p>	<p>This Policy shall be subject to review within 12 months of the next general Council election to be held in 2016.</p>