

# Complaint Management Procedures and Implementation Guidelines

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## 1. Purpose

To provide procedures for staff when implementing the Complaints Management Policy.

These procedures should be read in conjunction with the Internal Ombudsman's Guidelines October 2003

## 1. Related Council Policies

Complaints Management Policy

## 2. Legislation and references

Protected Disclosures Act 1994  
Independent Commission Against Corruption Act 1988  
Ombudsman Act 1974  
Local Government Award  
Anti Discrimination Act 1987  
Local Government Act 1993

## 3. Amendments

## 4. Document owner

The owner of this document is the General Manager

## 5. Authorisation

This procedure was authorised by the General Manager on November 2003

**Procedures &/or the associated guidelines are attached  
to this cover sheet**

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## **COMPLAINT MANAGEMENT PROCEDURES AND IMPLEMENTATION GUIDELINES**

### **1 The role of Council staff in implementing complaints guidelines**

- The **Internal Ombudsman** will:
  - Be the first point of assessment of all complaints (as defined in this policy).
  - Refer all appropriate matters to other investigating authorities.
  - Refer matters to Service Unit Managers (SUMS) as appropriate.
  - Review inquiries conducted by SUMS as appropriate.
  - Conduct preliminary inquiries as appropriate.
  - Conduct formal investigations as appropriate.
  - Report to the General Manager and make recommendations as to the outcome of both preliminary and formal inquiries as appropriate.
  - Be responsible for complaints of a formal nature that allege Corrupt Conduct, Serious and Substantial Waste and Maladministration, Pecuniary Interest, Protected Disclosures or of a nature for investigation and possible referral to the appropriate authority, such as the Department of Local Government, NSW Ombudsman or the Independent Commission Against Corruption (ICAC).
  - Where complaints come to the attention of the Internal Ombudsman that may also constitute or contain components that may fall within the ambit of existing Performance Management, EEO, grievance or bullying and/or harassment policies then the Internal Ombudsman will liaise with the HR Manager about the appropriate course of action.
- **Records staff** who receive mail are to ensure correspondence, that appears to be a complaint in accordance with this policy, is forwarded to the Office of the Internal Ombudsman by Dataworks for registration within 24 hours. If they are in doubt they should consult with the Records Manager. Original correspondence should not be destroyed but should also be sent to the Internal Ombudsman.

- **Complaints Registration Officers (CROs)** are to receive all telephone complaints under this policy. All complaints are to be recorded and forwarded to the Internal Ombudsman. CROs are to generate and send acknowledgement correspondence to complainants within three working days of receiving the complaint. CROs will maintain confidentiality in relation to any information they receive that is in any way connected with complaints.
- **Frontline staff and staff who have telephone contact with members of the public or business community** are to ensure that customers wanting to make a formal complaint are referred to a Complaints Registration Officer via the Complaints Hotline.
- **All staff** are to ensure that if they receive an allegation of misconduct as a complaint under this policy, it is forwarded to the Complaints Registration Officer or the Internal Ombudsman as appropriate.
- **Directors and Managers** are responsible for complaints where they have been referred to them by the Internal Ombudsman. Directors and Managers will maintain confidentiality in relation to any information they receive that is in any way connected with complaints
- **Other Council staff** will take carriage of complaints as directed by their Service Unit Manager. Full confidentiality will be maintained in relation to any information received, that is in any way connected with complaints.
- **The General Manager** is responsible for competitive neutrality complaints. The General Manager will conduct a monthly review of all resolved and unresolved complaints. The General Manager is also responsible for forwarding allegations of corrupt conduct to the ICAC under S11 of the NSW Independent Commission Against Corruption Act 1988.
- **The HR Manager** will continue to address those staff matters that fall within the ambit of existing Performance Management, EEO, grievance or bullying and/or harassment policies. Where such matters come to the attention of the HR Manager that may also constitute or contain components that may be a complaint under this policy then the HR Manager will liaise with the Internal Ombudsman about the appropriate course of action.

## 2 The process of complaint handling

### Existing procedures

Council staff will continue to use their best endeavours to use existing procedures to resolve issues raised by customers that relate to: service requests; and queries (which may involve some level of dissatisfaction) in relation to the level, quality and timeliness of Council services. Only if such

matters can't be resolved and the customer expresses a clear intention to make a formal complaint should matters be referred to the Complaints Registration Officers. The Council Officer who took the call should speak to the CRO and give them a brief précis of the background of the complaint, prior to transferring the call.

All staff who deal with members of the public will refer complaints (as defined in this policy) to the designated Complaints Registration Officers. In making a decisions as to whether to refer a member of the public to the Complaints Registration Officer, Council staff will assess complaints in accordance with the definitions section of this policy ensuring that the complainant has expressed a clear intention to make a formal complaint to the Internal Ombudsman.

The complaints management system should not be seen as an easy way of getting rid of perceived difficult customers. Council Officers should not redirect a customer to the complaints system where this is not their intention. If the customer's concerns can be resolved without them making a formal complaint then all efforts should be made to do so.

### **Registration**

The complaint will be registered by the CRO who will endeavour to obtain as much relevant information as possible according to a preset format. Once the complaint is taken it will be sent via Dataworks Workflow to the Internal Ombudsman. The CRO will send correspondence acknowledging receipt of the complaint within three working days.

### **Internal Assessment**

The Internal Ombudsman will conduct the initial assessment of all inquiries. The Internal Ombudsman may:

- In the case of corruption refer the matter to the General Manager who will refer the matter to the NSW ICAC under Section 11 of the ICAC Act 1988.
- In the case of serious maladministration, refer the matter to the NSW Ombudsman.
- In the case of serious and substantial waste refer the matter to the Council's external auditors for examination and report back.
- In the case of a criminal matter refer it to the NSW Police.
- In the case of a Councillor Pecuniary interest matter refer it to the Department of Local Government.
- In the case of all conduct matters in relation to Councillors, refer the matter to the General Manager.

- Refer the matter to a Service Unit Manager, or the HR Manager for appropriate allocation and resolution.
- Conduct a preliminary inquiry.
- In the case of a matter that may be declined according to the Internal Ombudsman's Guidelines October 2003, it may be declined at this point

### **Matters referred to SUMS**

When matters are referred to a SUM they may allocate the matter to other Council Officers (the actioning Officer) as appropriate but retain responsibility for its resolution. If the actioning Officer cannot resolve the issue within seven days it will be returned to the SUM for action. In any case all reasonable endeavours will be made to investigate and resolve the specific concerns of the complainant within ten working days of receipt of the complaint.

The Internal Ombudsman may require a report on the matter at any stage. The Internal Ombudsman will require a written report detailing the resolution of the matter. The SUM will be responsible for ensuring that all final correspondence is sent to the complainant including details of the results of the inquiry unless it is deemed more appropriate that such correspondence come from the Internal Ombudsman.

If the SUM is unable to resolve the issue to the satisfaction of the complainant the complaint will be forwarded to the Internal Ombudsman for review and a decision regarding further action. The complaint may be referred back to the SUM or relevant Director for further attempts at resolution. Mediation may be considered if appropriate. Mediation is a voluntary process of assisted negotiation between disputing parties conducted by an impartial person. The relevant SUM and/or Director will represent Council's position in the mediation.

If, during the course of an inquiry conducted by a SUM or actioning Officer, it becomes apparent that a Council Officer will be an affected person as a result of the inquiry, the SUM will report this fact immediately to the Internal Ombudsman. A decision will be made by the Internal Ombudsman at this point as to whether the SUM retains carriage of the matter or it is referred elsewhere.

### **Preliminary inquiries**

If a preliminary inquiry is conducted by the Internal Ombudsman the following options may occur:

- The matter may be referred to another appropriate authority as per the initial assessment stage.
- The matter may be terminated with no further action, in accordance with the Internal Ombudsman's Guidelines October 2003.

- The matter may be terminated with a report to the General Manager recommending action.
- The matter may proceed to a full inquiry to be conducted by the Internal Ombudsman.

If the matter proceeds to full inquiry then the Internal Ombudsman will prepare an investigation plan and proceed as appropriate.

If an official sanction is recommended by the Internal Ombudsman as an outcome of an inquiry under this policy, performance management and disciplinary procedures according to existing policies and industrial instruments will be applied by Council.

### **Confidentiality**

All complaints received that are protected disclosures will remain confidential in accordance with the terms of the Protected Disclosure Act 1994.

All other complaints will be treated as confidential. The complainant's name will not be released to the person who is the subject of the complaint without their consent.

The complainants name and the details of the complaint will not be disclosed to any person except for the purposes of investigating and resolving the complaint.

## **3 Protected Disclosures**

A protected disclosure is any information provided by a staff member to another staff member in accordance with the Protected Disclosures policy that relates to an allegation of corruption, maladministration or serious and substantial waste by Council, Council staff, Councillors or Council delegates.

In addition to those Officers named in the Council Protected Disclosures policy as being appropriate Officers to receive internal protected disclosures, Council staff may make protected disclosures directly to the Internal Ombudsman. In any case, Officers named in the Protected Disclosures policy who receive a protected disclosure from a Council Officer will refer such a disclosure directly to the Internal Ombudsman for assessment and investigation in accordance with this policy. The only exception to this is if the complainant clearly expresses that they do not want the matter handled by the Internal Ombudsman. In this case the matter will be handled by the General Manager or Public Officer as appropriate.

All information provided to the Internal Ombudsman as a protected disclosure will be treated confidentially in accordance with the Act. Nothing in this policy prevents Council Officers from making protected disclosures to external authorities such as ICAC and the NSW Ombudsman in accordance with the Protected Disclosures Act 1994.

The objective of the NSW Protected Disclosures Act 1994 is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that the matters raised in the disclosures are properly investigated.

The aims are to:

- Prevent or detect abuses of power or position in the public sector
- Ensure good public administration
- For further information on protected disclosures staff should consult Warringah Council's Code of Conduct – Part Five, Internal Reporting Policy.

The Code of Conduct can be viewed and downloaded on Council's intranet by following the link [www.warringah.nsw.gov.au/pdf/codeofconduct.pdf](http://www.warringah.nsw.gov.au/pdf/codeofconduct.pdf)

#### **4 Competitive Neutrality Complaints**

Competitive Neutrality Complaints are complaints regarding Council utilising its public sector position to gain an unfair advantage over a private sector competitor.

All Competitive Neutrality Complaints must be referred directly to the General Manager and/or the Public Officer.

##### **A Complaint regarding Competitive Neutrality is:**

- A Complaint that Council has not met its requirements under the Policy Statement or Pricing and Costing for Council's Businesses – a Guide to Competitive Neutrality
- A complaint that Council has not abided by the spirit of Competitive Neutrality in the conduct of a Business Activity
- A Complaint that Council has not established an effective Complaints Handling Mechanism

##### **Forms of action to resolve these complaints are:**

- Further information provided to the complainant to assist in their more accurate understanding the National Competition Policy
- Investigation/review by an independent reviewer of Council's business area subject to the complaint
- Change in Council's business practice where a complaint is justified

Complainants must be informed of alternative options if the complaint remains unresolved. Options for further referral and review are:

- The Department of Local Government
- Independent Commission Against Corruption
- Australian Competition and Consumer Commission.

A register will be established to ensure capture of verbal and written complaints of Competitive Neutrality. Council is required under Section 428A of the Local Government Act for the Annual Report to report a Statement of the Establishment of a Complaints Mechanism and a Summary of Complaints in regard to Competitive Neutrality.

Senior Management in December 2000 endorsed the General Manager's Policy for the Handling of Competitive Neutrality Complaints –STR-PL 720. The policy can be viewed or downloaded by following the link

[www.warringah.nsw.gov.au/pdf/Policies/STR-PL\\_720.pdf](http://www.warringah.nsw.gov.au/pdf/Policies/STR-PL_720.pdf)

## **5 Options for Redress for detriment arising out of Maladministration**

Maladministration is wrong conduct of public officials. This means action or inaction of a serious nature which is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory and/or based wholly or partly on improper motives.

The general principle is:

*Wherever practicable, persons detrimentally affected by maladministration should be put back in the position that they would have been in had the maladministration not occurred.*

Often this will not be practicable, particularly where the detriment cannot be easily quantified in financial terms. In such circumstances, persons detrimentally affected by maladministration should be offered other options aimed at satisfying their legitimate concerns in ways that are reasonable and fair to all concerned.

*Redress is used to refer to the range of appropriate responses that can be provided by Council to individuals or groups of people that have been detrimentally affected by maladministration, or who are likely to suffer detriment at some time in the future if previous or ongoing maladministration is not rectified, with the aim of reaching a fair and reasonable resolution.*

Redress options include:

- Communication
- Rectification
- Mitigation
- Satisfaction
- Compensation

These are not firm or fixed categories. In practice, a number of the redress options will fit into more than one category.

The Council is also responsible for contractors and wherever the contractor has inadequate redress procedures the Council remains accountable directly to the customer and should provide redress while seeking its own 'redress' from the contractor.

## **6 Offering of an Apology**

Where after investigation of a complaint it is found that the complainant has a genuine grievance, an apology is to be offered. The apology is to be in accordance with the NSW Ombudsman's Council fact sheet No. 5 "*Apologies by Councils*" or where the substance of the complaint involves children in accordance with the NSW Ombudsman's Child protection fact sheet No. 11 "*Apologies and Child Protection*". These documents can be downloaded from [www.ombo.nsw.gov.au/publications/index.html](http://www.ombo.nsw.gov.au/publications/index.html)

Apart from an apology other remedies may also be deemed to be appropriate.

## **7 Commitment to Improvement**

If the complaint resolution demonstrates a need for corrective action to improve access, process, systems, attitude and behaviour in service delivery the Internal Ombudsman will make a recommendation to the General Manager. If such a recommendation is adopted by the General Manager it will be promulgated to the appropriate SUM who will:

- take corrective action to document and improve the service/programme by ensuring systems are in place to respond effectively where it is within their responsibility to do so.
- Ensure the new processes that result from corrective action will be brought to the attention of customers as and where appropriate, through the Customer Service Staff, Service Unit Managers and by material freely available at Customer Service.

- will discuss feedback of the resolution, and actions to improve the service with the staff.

## **8 Staff Training**

Complaints Registration Officers will receive training in relation to the receipt of complaints. This training will initially be provided by the Internal Ombudsman.

Customer Service Officers will receive training from the Internal Ombudsman as part of their Dataworks training to be conducted for the implementation of that system.

Records Officers who deal with correspondence will receive training from the Internal Ombudsman.

All staff should receive training in relation to the complaints management system as part of their ongoing code of conduct training package.

New staff should receive training in respect of complaints as part of their Corporate Induction training and Supervisor Induction training.

SUMS and relevant actioning Officers will be given training in the conduct of Internal Investigations by a provider to be decided.

## **Additional Information**

### **Complaints about Council may be lodged with:**

#### **The Office of the Internal Ombudsman, Warringah Council**

Street Address	Email Address
725 Pittwater Road, DEE WHY 2099. Telephone (02) 9942 2105 Fax (02) 9942 2134	ombudsman@warringah.nsw.gov.au

#### **The Complaints Registration Officer Warringah Council**

Street Address	Email Address
725 Pittwater Road, DEE WHY 2099. Telephone (02) 9942 2105 Fax (02) 9942 2134	ombudsman@warringah.nsw.gov.au

#### **Department of Local Government**

Street Address	Postal Address	Email Address
Level 2 5 O'Keefe Ave Nowra NSW 2541	Locked Bag 3015 Nowra NSW 2541	dlg@dlg.nsw.gov.au

#### **NSW Ombudsman's Office**

Street Address	Email Address
Level 24 580 George Street SYDNEY 2000 Telephone (02) 9286 1000 Toll free 1 800 451 524	nswombo.ombo.nsw.gov.au

#### **Independent Commission Against Corruption**

Street Address	Postal Address	Email Address
Level 21 133 Castlereagh Street SYDNEY 2000 Phone (02) 8281 5999 Toll free 1800 463 909	GPO Box 500 SYDNEY 2000	icac@icac.nsw.gov.au

#### **Australian Competition and Consumer Commission**

Street Address	Postal Address	Email Address
Level 7, Angel Place 123 Pitt Street SYDNEY 2000 Phone (02) 9230 9133 Info line 1 300 302 502	GPO Box 3648 SYDNEY 1044	www.accc.gov.au

## **Complaint destinations in Dataworks**

### **Complaints received from members of the public:**

By phone in relation to staff and all actions of Council Officers      Go to the

By correspondence in relation to staff and all actions of Council Officers      Go to the

In all forms that relate to Competitive neutrality      Go to the

### **Initial workflow recipient**

Complaints Registration Officer

Office of the Internal Ombudsman

General Manager's office.