



GREATER BENDIGO CITY COUNCIL

COMMUNITY COMPLAINTS ABOUT A COUNCILLOR POLICY

DOCUMENT INFORMATION

Approval Level:	Council
Policy Type:	Council
Approval Date:	
Review cycle:	Within twelve months of each Council election
Review Date:	
Responsible Officer:	Manager Governance
Owner:	Governance
Responsible Director:	Corporate Performance
Relevant Legislation/Authority:	<i>Local Government Act 2020</i>
DOCSETID:	3165558

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1. PURPOSE

1.1 The purpose of this Policy is to:

- provide a framework for the open, fair, objective and transparent handling of complaints about a Councillor
- maintain high standards of good governance and transparency
- ensure alignment with the Local Government Act 2020 (the Act).

2. BACKGROUND

- 2.1 The City recognises that members of the public have the right to complain about the behaviour of its elected representatives and is committed to a Councillor complaint handling system that reflects the needs, expectations and rights of members of the community.
- 2.2 In doing this, the Council will recognise, promote and protect our resident's rights, including the right to comment and complain; ensure that the system for resolving Councillor complaints is fair, easily accessible and efficient; and, importantly, learn from complaints.

3. SCOPE

- 3.1 This policy applies to all external complaints about Councillors.
- 3.2 Disputes between Councillors and between Councillors and City staff are dealt with through the dispute resolution procedures within the Councillor Code of Conduct.

4. DEFINITIONS

4.1 In this Policy:

Act means the *Local Government Act 2020* (Vic).

Chief Executive Officer (CEO) means the person appointed by Council to be its Chief Executive Officer, or any person acting in that position.

City means the Greater Bendigo City Council, being a body corporate constituted as a municipal Council under the *Local Government Act 2020* (Vic).

Complaint means an expression of dissatisfaction with the quality of behaviour of a Councillor or group of Councillors.

Complainant means a person or entity affected by the behaviour of a Councillor who brings this to the notice of the Council. A person who makes a complaint who is not affected will receive an acknowledgment and advice that the matter will be dealt with in accordance with this Policy.

Complaint handling process means the way individual complaints are dealt with by the Council, including policy, procedure, technology, reporting, evaluation and improvement.

Council means the Greater Bendigo City Council being all the Councillors collectively.

Councillor means a person holding the office of member of Greater Bendigo City Council.

Delegated Committee means delegated committees defined under section 63 of the *Local Government Act 2020* (Vic).

Delegated Committee member means a person appointed to a Delegated Committee.

Mayor means the Councillor elected to the Office of Mayor of the City or any person appointed by Council to be acting as Mayor.

Member of Council staff means a natural person appointed by the CEO (other than an independent contractor under a contract for services or a volunteer) to enable the functions of the City to be carried out. The Chief Executive Officer is also a member of Council staff.

Misconduct has the meaning as defined by the Act and replicated in Attachment One.

Municipality means the Greater Bendigo municipality.

Role of a Councillor means the role as defined by section 28 of the *Local Government Act 2020* (Vic) and replicated in section 8 of this Policy.

Serious Misconduct has the meaning as defined by the *Local Government Act 2020* (Vic) and replicated in Attachment One.

5. PRINCIPLES

5.1 This policy is based on seven principles, as outlined in version one of the Ombudsman's [Councils and complaints – A good practice guide](#):

- **Commitment:** We are committed to resolving complaints that we receive. Our culture recognises people's right to complain and considers complaint handling to be part of our core business of serving the community and improving service delivery.
- **Accessibility:** People can easily find out how to complain to us, and we actively assist them with the complaints process.
- **Transparency:** The complaint handling system clearly sets out how to complain, where to complain, and how the complaint will be handled. The steps taken to respond to a complaint are recorded and will stand up to scrutiny.
- **Objectivity and fairness:** Under the complaint handling system, complainants and Councillors are treated with respect and courtesy, and complaints are judged on merit and fact.
- **Confidentiality:** The complaint handling system protects the personal information of people making a complaint, and Councillors are informed only on a 'need to know' basis.
- **Accountability:** We are accountable, both internally and externally, for our decision making and complaints handling performance. We provide explanations and reasons for decisions and ensure that our decisions are subject to appropriate review processes.
- **Continuous improvement:** We regularly analyse complaint data to find ways to improve how we operate and how we deliver our services. We then implement these changes.

6. POLICY

How to make a complaint

- 6.1 A person can make a complaint in several ways either by telephone, email or face-to-face interaction.

Mail	Greater Bendigo City Council P.O. Box 733 Bendigo Vic 3552
Telephone	5434 6000
In person	Main office Municipal Offices 15 Hopetoun Street Bendigo Vic 3550 Heathcote Service Centre 125 High Street Heathcote Vic
Email	requests@bendigo.vic.gov.au
Online	www.bendigo.vic.gov.au/Contact/Feedback-and-complaints
National Relay Service	TTY users phone 133 677 then ask for 03 5434 6000 Speak and Listen users phone 1300 555 727 then ask for 03 5434 6000 Internet relay users connect to the NRS then ask for 03 5434 6000

Accessibility

- 6.2 Any member of the public who has been affected by the behaviour of a Councillor or group of Councillors can make a complaint.
- 6.3 Complaints will be received in the format that is most appropriate and comfortable for the complainant. Complaints can be made through multiple channels, and outside business hours
- 6.4 Anonymous complaints will be responded to when enough information is provided.
- 6.5 If required, an interpreter will be provided to facilitate lodging a complaint.
- 6.6 A complainant may use an advocate or authorised personal representative to progress their complaint.
- 6.7 Further information on the complaint process can be found at <https://www.bendigo.vic.gov.au/Contact/Feedback-and-complaints> or by visiting any City office.

Complaint handling procedure**6.8 Summary**

6.8.1 The City takes a four-tiered approach to complaint handling, as follows:

- (a) Receive and clarify the complaint
- (b) Initial assessment and actions
- (c) Investigation:
 - (i) Internal investigation
 - (ii) Internal arbitration
 - (iii) Councillor Conduct Panel
- (d) Review:
 - (i) Internal review
 - (ii) VCAT

6.8.2 The 13.2 Template File Note, at Attachment Two, provides a convenient resource to record the complaint, the assessment and the internal investigation, as well as a checklist for required actions at each step.

6.9 Receive and clarify the complaint

6.9.1 Any Councillor or City staff member may be the first point of contact in receiving a complaint against a Councillor from a community member.

6.9.2 All complaints about a Councillor must be referred immediately to the Governance Unit

6.9.3 The Governance Unit will receive, clarify, and record a complaint and capture:

- (a) The complainant's details (if provided)
- (b) How the complaint was received
- (c) A description of the complaint (i.e. date, location)
- (d) The complainants desired outcome (if known)

6.9.4 All information gathered must be uploaded in the customer request management system with appropriate security levels.

6.9.5 Complainants must receive an acknowledgement of the complaint details, in writing, within 10 working days.

6.9.6 All Complaints about Councillors in the customer request system must be allocated to the Governance Unit.

6.10 Initial assessment and actions

6.10.1 The Governance Unit must undertake a preliminary check to determine:

- (a) The complaint meets the definition of a complaint (as opposed to a service request etc).
- (b) If there is sufficient information provided to proceed. If there is insufficient information, the complainant will be contacted to provide additional information.

6.10.2 The Governance Unit will then forward the complaint for initial assessment to:

- (a) The Mayor, in consultation with the Chief Executive Officer
- (b) The Deputy Mayor, in consultation with the Chief Executive Officer, if the complaint is about the Mayor.

6.10.3 The initial assessment must determine and document:

- (a) If the complaint is deemed frivolous, vexatious, misconceived or lacking in substance
- (b) If the complaint may be dealt with informally
- (c) If the complaint should proceed to internal investigation
- (d) If, in the opinion of the Mayor and CEO, there is sufficient evidence against the Councillor Code of Conduct and the Act of:
 - (i) Misconduct - the investigation may be escalated directly to the Internal Arbitration Process as per Division Five of Part Six of the Act.
 - (ii) Serious misconduct - the investigation may be escalated directly to the Councillor Conduct Panel as per Division Seven of Part Six of the Act.

6.10.4 In addition to the initial assessment the:

- (a) Mayor must notify the subject of the complaint
- (b) The CEO must offer the subject of complaint advice in relation to record keeping, the complaint handling process and their rights and responsibilities.

6.11 Investigation**6.11.1 Internal Investigation**

6.11.2 A Councillors Forum, comprising a minimum of three Councillors excluding the Councillor(s) who are the subject of the complaint will investigate the complaint.

6.11.3 The decision of the Councillors Forum will be provided in writing to the complainant including advice on how to escalate the complaint should the complainant be unhappy with the outcome of the complaint handling process.

6.11.4 Complainants must receive notice of the outcome, in writing, within 28 days.

6.11.5 Internal Arbitration

6.11.6 At any stage in the complaint handling process the complaint may be elevated to the Internal Arbitration Process as per Division Five of Part Six of the Act.

6.11.7 Councillor Conduct Panel

6.11.8 At any stage in the complaint handling process the complaint may be elevated to the Councillor Conduct Panel as per Division Seven of Part Six of the Act.

6.12 Review:**6.12.1 Internal Review of Investigation Outcome**

6.12.2 An Internal Review of the Internal Investigation may be requested a person who is affected by the decision.

6.12.3 The internal review will be undertaken by a City Councillor Conduct Officer.

6.12.4 The internal review must be completed, and all affected parties notified within a further 28 days.

6.12.5 Internal Review of Investigation Timeliness

6.12.6 If the Complaint is not resolved within 28 days, it will be subject to a review.

6.12.7 The internal review will be undertaken by a City Councillor Conduct Officer.

6.12.8 The internal review must be completed, and all affected parties notified within a further 5 days advising in writing:

(a) How and when the Internal Investigation will be completed

(b) Why the Internal Investigation was not completed within the 28 days.

6.12.9 Councillor Conduct Panel Review

6.12.10 Under section 170 of the Act a person who is affected by the decision made by a Councillor Conduct Panel under this Division may apply to VCAT for review of the decision.

Confidentiality & Fairness

6.13 Councillors who are the subject of a complaint:

- 6.13.1 Will be notified by the Mayor upon receipt of the complaint.
- 6.13.2 Will be offered advice from the Chief Executive Officer and/or Manager of Governance in relation to record keeping, the complaint handling process and their rights and responsibilities.
- 6.13.3 Will be advised of the outcome of the complaint in writing. The letter will detail:
 - (a) If the complaint was upheld, partly upheld or not upheld
 - (b) What recommendations the internal review made that the Councillor(s) must act on
 - (c) If the complaint has been escalated to an external review.

6.14 All complaints received about Councillors will be kept confidential.

Transparency & Fairness

- 6.15 When gathering information to respond to a complaint, the City will only:
- 6.15.1 use it to deal with the complaint or to address issues arising from the complaint
 - 6.15.2 disclose it in a de-identified format when disclosing data to the public
 - 6.15.3 share it with council staff on a need to know basis
- 6.16 Complainants will, within ten working days of receipt of their complaint, receive an acknowledgement in writing confirming:
- 6.16.1 How the complaint was received
 - 6.16.2 A description of the complaint (i.e. date, location)*
 - 6.16.3 The complainants desired outcome (of known).
 - 6.16.4 That the City will aim to resolve the complaint within 28 days
 - 6.16.5 Who to contact in relation to their complaint
 - 6.16.6 The review process that will occur if the complaint is not resolved within 28 days
- *In the instance of a complaint not being assessed as a complaint against a Councillor how the Council will respond to the matter.
- 6.17 Once the Internal Investigation process has been completed the complainant will receive an outcome letter in writing confirming:
- 6.17.1 If the complaint was upheld, partly upheld or not upheld
 - 6.17.2 Any changes to services, policy and/or procedure as a result of the complaint
 - 6.17.3 If the complaint has been escalated
 - 6.17.4 What recommendations the Internal Investigation made that the Councillor(s) must act on.
 - 6.17.5 How the complainant can escalate their complaint if they are unhappy with the outcome of their complaint.
- 6.18 If the Complaint is not resolved within 28 days it will be subject to a review in accordance with section 6.12.5.

Record keeping

- 6.19 All complaints received about Councillors will be kept confidential.
- 6.20 When gathering information to respond to a complaint, the City will only:
- 6.20.1 use it to deal with the complaint or to address issues arising from the complaint
 - 6.20.2 disclose it in a de-identified format when disclosing data to the public
 - 6.20.3 share it with council staff on a need to know basis
- 6.21 The complaint records must be captured in:
- 6.21.1 The customer request system
 - 6.21.2 The document management system.

Reporting

- 6.22 The following performance indicators will be reported on to monitor and evaluate our complaint handling processes:
- 6.22.1 Quantity of complaints received
 - 6.22.2 Proportion of complaints:
 - (a) At Preliminary Check:
 - (i) Do not proceed due to insufficient information
 - (ii) Do not proceed due to reclassification
 - (iii) Proceed
 - (b) At Initial Assessment:
 - (i) Do not proceed due to frivolous, vexatious, misconceived or lacking in substance determination
 - (ii) Are dealt with informally
 - (iii) Proceed to internal investigation
 - (iv) Proceed under Misconduct provisions of the Act
 - (v) Proceed under Serious Misconduct provisions of the Act
 - (c) At Internal Investigation:
 - (i) Are upheld, partially upheld, not upheld
 - (d) At Internal Review:
 - (i) Referred for outcome or lateness
 - (ii) Overturned or sustained
 - 6.22.3 Average and individual response times for acknowledgement, investigation outcome and internal review
 - 6.22.4 Details of changes made to services, policy and or processes.

7. REVIEW

- 7.1 Further information or advice on this policy should be directed to the Governance Unit at corporate.governance@Bendigo.vic.gov.au.
- 7.2 This Policy will be reviewed within 12 months of each municipal election.

8. ROLES AND RESPONSIBILITIES

- 8.1 In performing their role as a member of Council staff, officers must:
 - 8.1.1 Record and escalate all complaints about a Councillor
 - 8.1.2 Report any concerns relating to Councillor misconduct to their supervisor or the CEO.
- 8.2 The Chief Executive Officer (or delegate) must:
 - 8.2.1 Assist the Mayor (or Deputy Mayor) to undertake the Initial Assessment of complaints
 - 8.2.2 Offer advice to the subject of a complaint on record keeping, the complaint handling process and their rights and responsibilities
 - 8.2.3 Support the Internal Investigation process, as requested
- 8.3 The Mayor (or Deputy Mayor) must:
 - 8.3.1 Manage the complaint resolution transparently, fairly, and with confidentiality
 - 8.3.2 Liaise with the Chief Executive Officer (or delegate) as required

9. RELATED DOCUMENTS

- 9.1 The following documents are related to this Policy:
 - 9.1.1 [Local Government Act 2020 \(Victoria\)](#)
 - 9.1.2 [Councillor Code of Conduct](#)
 - 9.1.3 [Employee Code of Conduct](#)
 - 9.1.4 Councillor Appropriate Behaviour Policy
 - 9.1.5 Councillor Prevention of Sexual Harassment Policy
 - 9.1.6 [Complaint Handling Policy](#)

10. HUMAN RIGHTS COMPATIBILITY

- 10.1 The implications of this policy have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

11. ADMINISTRATIVE UPDATES

- 11.1** It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a City unit, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made through consultation and by resolution of Council only.

12. DOCUMENT HISTORY

Date Approved	Responsible Officer	Unit	Change Type	Version
Oct 2015	Manager Governance	Governance	Developed	1.0
Feb 2022	Manager Governance	Governance	Revision	1.1

13. ATTACHMENTS

- 13.1 Definitions from the Act

- 13.2 [Template File Note](#)

Attachment One - Definitions from Act

Misconduct by a Councillor means any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct:

Serious misconduct by a Councillor means any of the following:

- a) the failure by a Councillor to comply with the Council's internal arbitration process
- b) the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147
- c) the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor
- d) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel
- e) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b)
- f) bullying by a Councillor of another Councillor or a member of Council staff
- g) conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff
- h) the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information
- i) conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff
- j) the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision-making process when required to do so in accordance with this Act.