

<b>POLICY NO.</b>	M.25
<b>POLICY SUBJECT</b>	Complaints
<b>ADOPTION DATE</b>	28 August 2008
<b>LAST VARIATION DATE</b>	22 February 2018 (C.10/0218)
<b>LAST REVIEW DATE</b>	26 November 2020 (C.05/1120)

## **Introduction**

The Shire of Bridgetown-Greenbushes endeavours to provide services and facilities of the highest standard for Shire residents, ratepayers and visitors.

The Shire recognises the right of residents, ratepayers and visitors to complain when feeling dissatisfied. We are committed to the provision of quality residents, ratepayers and visitor's service and the efficient and fair resolution of complaints.

The Complaints Policy has been developed to provide a straight forward and uncomplicated process for investigating and resolving complaints.

The Shire recognises that the complaints mechanism also provides an opportunity for feedback, and continuous improvement of its processes and services.

## **Objectives of the Policy**

- Recognise, promote and protect the residents, ratepayers and visitor's right to complain about their dealings with the Shire
- Provide consistent and clear guidelines for the handling of complaints
- Provide a simple, clear and concise process for recording, examining and resolving complaints
- To obtain feedback to identify services and processes that could be improved.

## **What is a Complaint?**

A complaint is an expression of dissatisfaction about the quality of service a resident, ratepayer or visitor receives when dealing with the Shire. Complaints also include grievances that a resident, ratepayer or visitor may have about the inappropriate actions or behaviours of a Shire employee or an elected member.

Complaints may concern:

- Services provided by the Shire
- Actions or behaviours of:
  - a staff member
  - the CEO
  - an elected member other than the President
  - the President

A complaint under this Policy is not:

- Submittal of a residents, ratepayers and visitors service request;

- Requests for new services;
- Requests for information or explanation of policies or procedures;
- A complaint relating to a decision/determination (other than processes used) made by the Council or staff member acting under Council's delegated authority;
- A complaint for which statutory review processes exist, such as an appeal against a planning decision for which there are appeal provisions in the applicable legislation;
- A complaint about receipt of an infringement when an internal appeal or request for withdrawal process to the Shire CEO is available;
- An expression of dissatisfaction with the behaviour or performance of a staff member whereby the mechanism is contained in Council's Code of Conduct or policy;
- An expression of dissatisfaction with the behaviour or performance of an elected member whereby the mechanism is contained in the Local Government (Rules of Conduct) Regulations or Council's Code of Conduct; or
- A work related grievance of a staff member.

The reason why complaints about behaviour or performance of staff or elected members as outlined above aren't termed "complaints" is that the processes set out in the Local Government (Rules of Conduct) Regulations, Council's Code of Conduct or other applicable policy take priority and no investigation under the Complaints Policy is to proceed.

All complaints must be received in writing, either via formal written correspondence, email to the Shire's corporate email address [btnshire@bridgetown.wa.gov.au](mailto:btnshire@bridgetown.wa.gov.au) or on the official complaints form, as provided at the Shire Customer Service Area, at the external centres of the Library, Leisure Centre and Visitor Centre, and on the website at [www.bridgetown.wa.gov.au](http://www.bridgetown.wa.gov.au).

#### **What our residents, ratepayers and visitors can expect from us**

- Complaints will be taken seriously
- Anyone making a complaint will be treated with courtesy and respect
- Anyone making a complaint will be listened to and their views will be taken into account
- All complaints will be dealt with in a timely manner
- All complaints will be recorded.

#### **What we would like from our residents, ratepayers and visitors if making a complaint**

- Courtesy and respect
- A full and accurate explanation of the complaint
- Identification and contact details so that we can provide feedback and handle the complaint as effectively and professionally as possible.

#### **Anonymous complaints**

Limitations will apply to the investigation of anonymous complaints.

Anonymous complaints will not be investigated unless the matter is:

- A matter for which the Shire is obliged to act, prescribed in the Local Government Act, the Corruption and Crime Commission Act or under any other written law; and/or
- A matter which if not attended to could reasonably constitute a significant risk to the health and/or safety of persons, animals or the environment.

**Withdrawing a complaint**

Anyone wishing to withdraw a complaint must notify the Shire in writing or via email.

**Complaints of illegal or corrupt behaviour**

Complaints which, when assessed, relate to illegal or corrupt behaviour or misconduct under applicable legislation will be referred by the CEO to the appropriate external organisation. Where such a complaint alleges such behaviour by the CEO, the Shire President will refer the complaint.

**Termination of a complaint**

The Shire of Bridgetown-Greenbushes may terminate a complaint if it:

- has previously been dealt with by the Shire;
- was lodged more than twelve months after the alleged action took place, except where a complaint alleges that an action more than 12 months previously may have caused the issue of current concern; or
- if another statutory authority could more effectively deal with the complaint, in which case an explanation will be provided along with the contact details of the appropriate organisation.

**Complaint Processes and Flow Charts**

A “service complaint” is a complaint about the standard of a service provided by the Shire. A complaint against an employee of the Shire, CEO, elected member or Shire President is about the actions, inactions or behaviour of those persons.

Set out below is a descriptive flow chart showing the various complaint types, and their related processes.

**Flow Chart**

<b>Complaint Against a Service Provided by the Shire</b>	<b>Complaint Against Staff Member other than CEO</b>	<b>Complaint Against CEO</b>	<b>Complaint Against an Elected Member other than President</b>	<b>Complaint Against President</b>
Complaint is presented to and dealt with by CEO.	Complaint is presented to and dealt with by CEO.	Complaint is presented to Shire President.	Complaint is presented to Shire President.	Complaint is presented to CEO or Deputy President.
▼	▼	▼	▼	▼
If complaint alleges illegal or corrupt action, the CEO will automatically refer to outside agency	If complaint alleges illegal or corrupt behaviour, the CEO will automatically refer to outside agency	If complaint alleges illegal or corrupt behaviour, the President will automatically refer to outside agency	If complaint alleges illegal or corrupt behaviour, the President will automatically refer to outside agency	If complaint alleges illegal or corrupt behaviour, the CEO / Deputy President will automatically refer to outside agency
▼	▼	▼	▼	▼

If complainant is dissatisfied with CEO investigation or determination, he/she to be advised of appeal option to Complaints Panel.	If complainant is dissatisfied with CEO investigation or determination he/she to be advised of appeal option to Complaints Panel.	Shire President appoints Complaints Panel.	Shire President appoints Complaints Panel.	Deputy President appoints Complaints Panel.
▼	▼	▼	▼	▼
If appeal lodged, Shire President is to appoint Complaints Panel to review CEO determination.	If appeal lodged Shire President is to appoint Complaints Panel to review CEO determination.	Complaints Panel to determine complaint and any subsequent action.	Complaints Panel to determine complaint and any subsequent action.	Complaints Panel to determine complaint and any subsequent action.
▼	▼	▼	▼	▼
Complaints Panel to determine complaint and any subsequent action.	If Complaint Panel determines finding against staff member, the matter is referred to CEO for determination of action.	If complaint is upheld the Shire President formally advises Council of the contents of the complaint and the action determined by the Complaints Panel, for their information only.	If complaint is upheld the Shire President formally advises Council of the contents of the complaint and the action determined by the Complaints Panel, for their information only.	If complaint is upheld the Deputy President formally advises Council of the contents of the complaint and the action determined by the Complaints Panel, for their information only.
▼	▼	▼	▼	▼
The CEO will submit a monthly report in elected members' information bulletin on the number and status of current service complaints.	If complainant is dissatisfied with Complaints Panel determination and/or CEO action, he/she to be advised of external appeal options.	If complainant is dissatisfied with Complaints Panel determination he/she to be advised of external appeal options.	If complainant is dissatisfied with Complaints Panel determination he/she to be advised of external appeal options.	If complainant is dissatisfied with Complaints Panel determination he/she to be advised of external appeal options.

### **Step-by-Step Description**

#### **(A) Complaints Against a Service Provided by the Shire**

Any complaint expressing dissatisfaction about a service provided by the Shire will be dealt with administratively by the Chief Executive Officer (CEO) unless a review of the CEO's determination is requested by the complainant.

- (i) The complaint will initially be referred by the CEO to the relevant senior officer responsible for the service that is the subject of the complaint. The senior officer will investigate the complaint, including interviewing relevant staff members and will provide a report to the CEO.
- (ii) The CEO will consider the report from the senior officer and make a determination of the complaint, and if the complaint is upheld will determine whether any changes to current practices or procedures are required.
- (iii) The complainant shall be advised in writing, as soon as practicable, of the outcome or decision concerning the complaint.
- (iv) If the complainant is dissatisfied with the investigations or determinations undertaken by the CEO, he/she will be advised of their rights to appeal to a Shire Complaints Panel established by the Shire President. The Complaints Panel normally shall comprise:
  - (A) President;

- (B) Relevant senior officer responsible for the provision of the service that is the subject of the complaint (where the service in question is provided by the Office of the CEO, one of the Executive Managers will be the relevant senior officer); and
  - (C) Two (2) elected members, selected by the Shire President.
- (v) The Complaints Panel shall meet as soon as practicable, and in all cases within fourteen (14) days of being informed by the President/CEO of an appeal.
- (vi) The Complaints Panel will assess the complaint and, if necessary, will interview the person making the complaint, accompanied by a support person if he/she so desires, and any other relevant person or officer. The Complaints Panel will prepare a report for the consideration of either the CEO or Council (as determined by the Complaints Panel). The report will contain:
- (A) details of the complaint;
  - (B) details of how the complaint was investigated;
  - (C) other relevant factors; and
  - (D) a recommendation.

**(B) Complaints Against Employees (other than the CEO):**

The Local Government Act 1995, Section 5.41 states:

*“5.41 The CEO’s functions are to:*

*... (g) be responsible for the employment, management, supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);”*

Any complaint/allegation about an employee (other than the CEO) shall be dealt with administratively by the CEO, other than if a complainant is dissatisfied with the determination made by the CEO in the initial complaint. In that case the complainant may appeal to a Shire Complaints Panel for a review of the CEO’s determination. However, in accordance with Section 5.41(g) of the Local Government Act, the CEO will solely make the determination on what action is to be taken against a staff member found by the Complaints Panel to have acted in an inappropriate or adverse manner on the subject of the complaint in question.

- (i) All complaints/allegations will be treated as confidential and will ensure that the principles of “natural justice” and “procedural fairness” are followed at all times.
- (ii) The CEO will advise the employee in writing of the complaint.
- (iii) The advice will:
  - (A) contain details of the complaint/allegation (other than the complainants name/details);
  - (B) contain details of legislation/Code of Conduct being allegedly breached;
  - (C) seek comments or a response to the allegation; and
  - (D) specify a closing date for receiving such response.

- (iv) The CEO will investigate the complaint/allegation, or may direct another person to carry out the necessary investigations, and will prepare a report.
- (v) If any complaint/allegation or criticism is made concerning an employee, that employee may reply to the complaint/allegation in writing to the CEO.
- (vi) The CEO (or delegate) will prepare a confidential report. The report will contain details of the complaint/allegation, legislation/Code of Conduct being breached and a determination on whether a breach has occurred and if so what action is necessary against the employee.
- (vii) The CEO will consider the response provided and advise the employee being complained about and the complainant, in writing, of the findings.
- (viii) The complainant and the employee being complained about shall be advised in writing, as soon as practicable, of the outcome or decision concerning the complaint/allegation.
- (ix) If the complainant is dissatisfied with the investigations or determinations undertaken by the CEO, he/she will be advised of their rights to appeal to a Shire Complaints Panel established by the Shire President. The Complaints Panel normally shall comprise:
  - (A) President;
  - (B) Applicable senior officer; and
  - (C) Two (2) elected members, selected by the Shire President.
- (x) The Complaints Panel shall meet as soon as practicable, and in all cases within fourteen (14) days of the complaint receipt.
- (xi) The Complaints Panel will assess the complaint and, if necessary, interview the person making the complaint and the employee, each accompanied by a support person should either so desire. The Complaints Panel will prepare a report for the consideration of the CEO. The report will contain:
  - (A) details of the complaint;
  - (B) details of how the complaint was investigated;
  - (C) other relevant factors; and
  - (D) a recommendation.

**(C) Complaints Against Elected Members, President or the Chief Executive Officer:**

- (i) The elected member, President or CEO will be advised in writing of the complaint. The President will write to any elected member involved, and where the complaint involves the President, the Deputy President will write to the President. Where the complaint involves the CEO, the President will write to the CEO.
- (ii) Any complaints/allegations about an elected member, the President or the CEO shall be referred to a Complaints Panel for investigation.

- (iii) The Complaints Panel shall normally be chaired by the President, except when the complaint/allegation involves the President in which case the panel will be chaired by the Deputy President. If necessary, the Complaints Panel will interview the complainant and the elected member, the President or the CEO, each accompanied by their respective support person, should they so desire.
- (iv) Notwithstanding (iii) above, if the complaint is about the President and the complainant is the Deputy President, the Complaints Panel is to be chaired by an elected member selected by the CEO, giving cognizance of the elected member's "seniority" of service with the Council.
- (v) The Complaints Panel normally shall comprise:
  - (A) President (except where the complaint/allegations involves the President). In this case the Deputy President will chair the panel (unless he/she is the complainant);
  - (B) CEO (except where the complaint/allegation involves the CEO); and
  - (C) Two (2) elected members, selected by the Shire President, or the Deputy President if the complaint/allegations involves the President;
- (vi) The Complaints Panel shall meet as soon as practicable, and in all cases within fourteen (14) days of the complaint receipt.
- (vii) When a complaint is received, the person who is the subject of the complaint will be advised in writing within seven (7) days. The advice will:
  - (A) contain details of the complaint/allegation (including the complainant's name/details);
  - (B) contain details of legislation/Code of Conduct being allegedly breached;
  - (C) seek comments or a response to the allegation; and
  - (D) specify a closing date for receiving such response.

The President or CEO (whichever is applicable) will send the advice to the person who is the subject of a complaint. Where the complaint is about the CEO, the advice will be sent by the President, and where the complaint is about the President, the advice will be sent by the Deputy President.

- (viii) If necessary, the CEO may prepare a confidential report, for the consideration of the Council, to be jointly signed by the President, Deputy President or elected member (as applicable) and CEO. The report will contain:
  - (A) details of the complaint/allegation;
  - (B) legislation/Code of Conduct being breached;
  - (C) other relevant factors; and
  - (D) a recommendation.

The Council will consider and determine appropriate action to be taken.

If the complaint/allegations are against the CEO, and if deemed necessary by the Complaints Panel, the President shall prepare the report to Council,.

- (ix) The complainant and the elected member or CEO being complained about shall be advised in writing, as soon as practicable, of the outcome and/or determination concerning the complaint/allegation.
- (x) If any complaint/allegation is made concerning an elected member or CEO, that elected member or the CEO may reply to the complaint/allegation either in writing to the President or to the Council itself. If the complaint is about the President, the President may reply to the Chair of the Review Panel and/or to the Council itself.

Where a complaint against an elected member (including the President) comes under the authority of the Local Government (Rules of Conduct) Regulations then the process under that legislation is to take priority and no investigation under this Policy will proceed.

**If at the End of the Shire's Process the Complainant is Not Satisfied**

If a person making a complaint believes that his/her complaint has not been duly dealt with by the Shire of Bridgetown-Greenbushes, and wishes to make an appeal, he/she will be advised to raise their concerns with the Western Australian Ombudsman's Office.

**Reporting**

The CEO will complete a monthly report to Council containing a list of the complaints received and processed in the prior month, including the relevant determination and action(s) taken on each complaint. The CEO will also include a summary of these complaints, including the actions taken and their outcomes, in the Shire's annual report.