

COMPLAINTS AGAINST COUNCILLORS POLICY



Approval Body:	Council
Endorsement Date:	31 January 2016 (to be updated)
Council Plan Reference:	6.2
Current Version:	2.0 <i>Council policy documents change from time to time and it is recommended that you consult the electronic reference copy on Casey Council's Website to ensure that you have the current version. Alternatively, you may contact Customer Service on 9705 5200.</i>
Compulsory Review Cycle:	4 years
Review Date:	TBC <i>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 document, such a change may be made administratively. Examples include a change to the name of a Council department, 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 by resolution of Council.</i>
Responsible Department:	Governance
Relevant Legislation:	Privacy and Data Protection Act 2014 Local Government Act 2020 Local Government (Casey City Council) Act 2020 Protected Disclosure Act 2012 Freedom of Information Act 1982
Relevant Council Documents:	Good Governance Framework Councillor Code of Conduct Complaint Handling Framework Complaint Handling Procedure
Breaches:	NA
ECM ID:	12083473



1. Purpose and Intent

This Policy informs:

- how a member of the public can submit a complaint against a Councillor
- where a Councillor is the subject of a complaint against Council, how it is to be investigated
- roles and responsibilities
- how information is stored
- how information is used to analyse where improvements can be made

Implementation will be guided by relevant legislation.

2. Scope

This Policy does not apply in the case of complaints which must legally be addressed in some other manner such as:

- a Protected Disclosure in relation to Councillors under the *Protected Disclosure Act 2012*; or
- the Councillor Code of Conduct; or
- the Councillor Code of Conduct provisions under the Act.

This policy should be read in conjunction with:

- Councillor Code of Conduct
- Sections 141, 142 and 143 of the *Local Government Act 2020*

3. Definitions

Key term	Definition
Chair of the Councillors	means the elected Mayor at that time.
Councillors	<p>has the same meaning as the definition of Councillor in the <i>Local Government Act 2020</i>.</p> <p>In accordance with the <i>Local Government (Casey City Council) Act 2020</i> Casey City Council has three appointed Administrators.</p> <p><i>While Casey City Council does not currently have elected Councillors, Administrators must perform all the functions, powers, and duties of the Casey City Council in accordance with both the Act and the Casey City Council Act.</i></p>
Complaint	has the same meaning as the definition in the City of Casey Complaint Handling Framework.
Complainant	a person or group that makes a complaint.
Council	has the same meaning as the definition in the <i>Local Government Act 2020</i> .
Council officer	has the same meaning as the definition in the <i>Local Government Act 2020</i> .
The Act	means the <i>Local Government Act 2020</i> .

4. Policy

4.1. Complaint types

There are several integrity bodies in Victoria that can investigate complaints about local councils.

Which Integrity Body to submit a complaint	Complaint topics
Independent Broad-based Anti-Corruption Commission (IBAC)	Investigates complaints relating to corruption and misconduct in public bodies, including councils.
Local Government Investigations and Compliance Inspectorate	Investigates concerns related to council operations, including electoral and conflict of interest provisions.
Ombudsman Victoria	Investigates complaints about actions, decisions or conduct of public bodies, including councils.

In many instances, these agencies encourage a complainant to first try to resolve the matter with Council. Casey Council's Complaint Handling Framework details our commitment to providing a fair and consistent process for customers making a complaint to Council. Complaints can be made using Council's Complaints Handling Procedure.

4.2. Complaints Against Councillors

Councillors work hard to achieve the best outcomes for the municipality. Occasionally their conduct may cause concern for some members of the community. This policy has been put in place to ensure a consistent and fair approach in dealing with complaints against Councillors.

4.3. How to make a complaint

Complaints can be made to Council in person or via:

1. Council's website: <https://www.casey.vic.gov.au/make-complaint>
2. Email *caseycc@casey.vic.gov.au*
3. Phone *(03) 9705 5200*
4. Mail
*Att: Manager Governance
PO Box 1000
Narre Warren, Victoria 3805*

4.4. Complaints from members of the public about Councillors

When Council receives a complaint, the Chair of Councillors will be advised.

In accordance with section 18(1)(e) of the Act the Chair of Councillors will have the opportunity to promote behaviour among Councillors that meets the standards of conduct.

When the complaint cannot be resolved:

- by the Chair of Councillors managing the complaint in collaboration with the Councillors, or
- where the complaint is against the Chair of Councillors, or
- where the Chair of Councillors is the subject of a complaint against Council,

the Chief Executive Officer shall engage an appropriately qualified independent external investigator to investigate the complaint.

Councillors and Council officers will cooperate fully with the investigator and have the right to the presence of a support person of their choosing during any discussions with the investigator.

The external investigator shall forward a report on the outcomes of the investigation, including any recommendations, to the Chief Executive Officer.

Sections 141 – 146 of the *Local Government Act 2020* establishes the internal arbitration process.

Council shall form a Committee of all Councillors, excluding the Councillor or Councillors who are the subject of the complaint, to consider the independent external investigator's report.

4.5. Privacy and confidentiality

When gathering information to respond to a complaint, we will only:

- use it to deal with the complaint or to address issues arising from the complaint.
- disclose it in a de-identified format when sharing data with the public.
- share it with council staff on a need-to-know basis.
- share it with integrity bodies as required.

4.6. Recording complaints

All complaints are recorded on a secure site in the Council's document handling system. Executive Office staff will ensure complaints are registered with necessary security levels.

Council analyses complaint data to provide annual reports to Council on how complaints can be reduced.

Council records the following information for each complaint:

- the complainant's details
- how the complaint was received
- a description of the complaint
- the complainant's desired outcome (if known)
- the person responsible for handling the complaint
- any action taken, including contact with the complainant, response times and the outcome
- any recommendations for improvement, and who is responsible for implementing them.

Any queries regarding the recording of complaints should be directed to Manager Governance.

4.7. Responsibilities

Who	What
Officer receiving complaint	<p>Where the complaint is about a Councillor will:</p> <ul style="list-style-type: none"> clarify the nature of the complaint clarify the outcome the complainant is seeking refer the complaint directly to the Manager Governance
Manager Governance	<ul style="list-style-type: none"> send complaints about Councillors to the Chief Executive Officer responsible for providing notification about the outcome to the complainant
Chief Executive Officer	<ul style="list-style-type: none"> receive complaints about Councillors and refer them to the Chair of Councillors receive complaints about the Chair of Councillors and has the responsibility to engage a qualified, independent investigator to investigate the complaint.
Councillors	<ul style="list-style-type: none"> the Councillors shall form a Committee of all Councillors, excluding the Councillors or Councillors who are the subject of the complaint, to consider the independent external investigator's report.
Chair of Councillors	<ul style="list-style-type: none"> will examine the information forming the basis of the complaint and may, at their discretion, discuss in confidence the nature of the complaint with the Chief Executive Officer to determine whether any internal or external assistance is required to document or investigate the complaint.
Governance Department	<ul style="list-style-type: none"> maintain and promote this policy. maintain the complaints register.

4.8. Breaches

NA

5. Relevant Forms

NA

6. Document History

Date approved	Change Type	Version	Next Review Date
TBA	Major: Changed to align with the Local Government Act 2020	2.0	TBA
18 July 2019	Administrative: Transfer to new template	1.6	16 August 2022
16 August 2018	Administrative	1.5	16 August 2022