



LOCAL GOVERNMENT ACT REVIEW ►► DELIVERING FOR THE COMMUNITY

DETAILED
DISCUSSION PAPER

INCLUSIVE

Complaints Management

Our vision is for the local government sector to be agile, smart and inclusive.

Our objective is to reform local government so that it is empowered to better deliver quality governance and services to their communities now and into the future.

A new Local Government Act will be drafted, Transforming Local Government.

Inclusive includes topics that focus specifically on how local governments represent and involve their communities in decision-making. As the tier of government closest to the community, there is an expectation that local governments represent the whole community, recognise diversity within their district and are responsive to community needs.

The topics addressed in this theme are:

- Elections;
- Community engagement;
- Integrated planning and reporting; and
- Complaints management.

Have your say!

We need your input to inform how local government will work for future generations.

Submissions

The simplest way to have your say is to answer the questions via the online surveys.

The survey questions relate to the matters discussed in the papers and we encourage you to read the relevant paper before completing the survey.

While you may lodge multiple written submissions via email at actreview@dlgsc.wa.gov.au, you will only be able to complete each online topic survey once. The public submission period closes on 31 March 2019. This is the last day that you will be able to respond to the surveys.

Note: Unless marked as confidential, your submission (including survey responses) will be made public and published in full on the Department of Local Government, Sport and Cultural Industries' (the Department) website. Submissions that contain defamatory or offensive material will not be published.

Introduction

Local governments deal with many complaints each year due to their very nature of being the first point of contact for the public. Complaints are an important way for the management of an organisation to be accountable to the public. If not handled well, complaints can lead to a significant breakdown in trust and can spill over into other areas of the local government's operations.

Role of the Ombudsman

When complaints are not effectively dealt with by the local government, complainants may take their complaint to the Ombudsman. The Ombudsman is an independent officer of Parliament with the responsibility to investigate the actions of public authorities including local governments. One of the principal functions of the Ombudsman's office is receiving, investigating and resolving complaints from the public sector, local governments and universities.

What is a complaint

To be able to effectively categorise and manage complaints, there needs to be a common understanding of what constitutes a complaint.

The Australian/New Zealand guidelines for complaints management in organisations AS/NZ 10002:2014 (The Standard) defines a complaint as:

“Expression of dissatisfaction made to or about an organisation related to its products, services, staff or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required.”

A complaint “**is not** a request for information about council services, a request for action or feedback or suggestions from the public about council's services and administration.”

The Standard provides guidance on complaints management within an organisation including the planning, design, operation, maintenance and improvement of the organisation's complaints management systems.

The Standard emphasises that active commitment at a local government's highest level is essential for effective complaints management. If complaints are managed effectively and transparently it can improve public confidence in local governments and provide a mechanism for local governments to review their efficiency and effectiveness. As a result, it is imperative to have policies and procedures in place to deal with a complaint well from when it is first received.

Complaints are driven by dissatisfaction felt by the complainant on issues they feel are explicitly or implicitly expected or legally required. Even when a person's conduct may be unreasonable, there may still be a valid complaint and the complaint should be handled appropriately. Labelling a person using terminology like vexatious or frivolous can negatively influence how they are perceived and responded to within a complaint

handling system. Local governments need to have appropriate strategies in place for managing unreasonable conduct by a complainant fairly, ethically and reasonably. Both the Standard and the Ombudsman provide excellent guidance tools on key principles for dealing with unreasonable complainants.

How Jurisdictions deal with complaints across Australia

Jurisdiction	Policy and Procedure
Western Australia	<p>A local government's annual report is to include:</p> <ul style="list-style-type: none"> • Details of the entries made under section 5.121 during the financial year in the register of complaints, including - <ul style="list-style-type: none"> ○ The number of complaints recorded in the register of complaints; and ○ How the recorded complaints were dealt with; and ○ Any other details that the regulations may require; and ○ Such other information as may be prescribed.
South Australia	<ul style="list-style-type: none"> • If a complaint is unresolved an external member can ask for an internal review. • All councils must develop and maintain policy, practices and procedures for dealing with: <ul style="list-style-type: none"> ○ Any reasonable request for the provision of a service by the council or for the improvement of a service provided by the council; and ○ Complaints about the actions of the council, employees of the council, or other persons acting on behalf of the council. • Council must ensure that copies of documents concerning the policies, practices and procedures are available for inspection by the public.
Queensland	<ul style="list-style-type: none"> • Councils must adopt a process for resolving administrative action complaints. • Councils must have written policies and procedures that support the complaints management system.
Tasmania	<p>A council must adopt a Customer Service Charter that:</p> <ul style="list-style-type: none"> • Specifies the principles relating to services provided by the council; and • Specifies the procedure for dealing with complaints relating to services provided by the council; and • Includes any prescribed matter. <p>A council must review the Customer Service Charter at least once every two years.</p> <p>The <i>Local Government (General) Regulations 2015</i> prescribes what a customer service charter adopted under the Act must include, providing clear guidance to local governments on how to write an appropriate customer service charter.</p>

Jurisdiction	Policy and Procedure
Victoria	<p>Amendments currently under consideration will require councils to develop and maintain a complaints policy for dealing with complaints made to the council.</p> <p>The policy must incorporate a review process, carried out by a person who is independent from the original decision maker or service provider.</p>

What are the opportunities for reform?

There is currently no legislative requirement for local governments to have complaint handling processes other than the need to address how they dealt with complaints in the annual report.

According to research conducted by the Department, almost 50% of local governments in Western Australia either have no, or very limited, documented complaints handling processes. Furthermore, many local governments do not have easily accessible complaints handling processes which impacts a local government's commitment to transparency and accountability. The purpose of this review is to explore options to equip local governments with tools to better deal with external complaints from members of the public and their communities.

In a bid to modernise the *Local Government Act 1995* (the Act) in line with the message of being agile, smart, and inclusive, identifying what works best for the diversity of needs across Western Australia is essential. Streamlining processes while creating mechanisms that can allow a flexible, fit-for-purpose way of ensuring all local governments get the most out of complaints management is essential for Western Australia.

Complaints management policies and procedures

A legislative requirement for complaints management may encourage local governments to adopt and actively work on better complaints management. The Australian/New Zealand guidelines for complaints management in organisations recommends that organisations should implement a complaints management system.

The Standard states that an organisation should establish an explicit complaints management policy setting out its commitment to the effective management of complaints. The policy should be supported by procedures dealing with how the complaints will be managed by the organisation, who will be involved in that process, and their roles. In South Australia, the legislation prescribes the minimum procedures that local governments must address, whereas in Queensland, the legislation simply provides that local governments must have written policies and procedures that support complaints management.

All local governments could be required to adopt the Standard, including the following key requirements:

- The adoption of a clear definition of complaints in line with the Standard;
- Policies and procedures that clearly set out how the local government handles complaints, for example providing timeframes and requiring a person independent of the initial matter to be responsible;
- Provisions for how complaints are to be resolved and for when matters are referred to an external body, for example the Ombudsman; and
- A requirement for local governments to make their policies and procedures easily accessible to the public.

Customer service charter

A customer service charter is a policy document used to provide the principles and guidelines a local government may use for complaints management. A charter is a fit-for-purpose tool to identify complaints management policies and procedures. The charter should be available on a local government's website to outline how a local government manages complaints from the public. A customer service charter should provide:

- The principles relating to the services provided by the council; and
- The procedures for dealing with complaints relating to services provided by the council; and
- Any other information a local government deems essential.

The Public Sector Commission website

(<https://publicsector.wa.gov.au/document/customer-service-charter>) provides a good example of a customer service charter.

Should there be an internal independent review process for unresolved complaints?

Clear policies and procedures to handle complaints should provide both the local government and community with adequate avenues to resolve their grievance and close the loop on what can be a resource burn for the industry. The nature of complaints means that not every issue will be satisfactorily resolved. To ensure due process, the Act could require a local government to specify a process for the review of decisions.

This review process would be carried out by a person who is independent from the original decision maker or service provider. An internal independent reviewer may take the form of a different staff member, a committee created by the local government, tabling of the decision for review by council or hiring an independent reviewer. This option needs to consider the cost implications that may arise, especially for smaller local governments.

The Ombudsman website provides great examples of good complaints managements on both reasonable and unreasonable complainant conduct which is easily accessible by everyone.

What do you think?

The easiest way to have a say on the future of your community is to complete the survey available [here](#).

Your responses to this survey will inform the review and will take approximately 15 minutes to complete.

We ask that you take care in completing a survey. While you may lodge multiple written submissions via email at actreview@dlgsc.wa.gov.au, you will only be able to complete each online topic survey once.

The public submission period closes on 31 March 2019. This is the last day that you will be able to respond to the surveys.

Unless marked as confidential, your submission (including survey responses) will be made public and published in full on the Department's website. Submissions that contain defamatory or offensive material will not be published.

The questions in the survey are provided below but we encourage you to complete the survey online which is available [here](#).

Survey - Complaints management

1. Have you read the discussion paper associated with this survey?
 - a. Yes
 - b. No
2. Who are you completing this submission on behalf of?
 - a. Yourself
 - b. An organisation, including a local government, peak body or business
3. What is the name of the organisation? Shire of Carnarvon
4. What is your name? David Burton
5. What best describes your relationship to local government?
 - a. Resident / ratepayer
 - b. Staff member or CEO
 - c. Council member, including Mayor or President
 - d. Peak body
 - e. State Government agency
 - f. Supplier or commercial partner
 - g. Community organisation
6. What best describes your gender?
 - a. Male
 - b. Female
 - c. Other
 - d. Not applicable / the submission is from an organisation
7. What is your age?
 - a. 0 – 18
 - b. 19 – 35
 - c. 36 – 45
 - d. 46 – 55
 - e. 56 – 65
 - f. 66 – 75
 - g. 76+
 - h. Not applicable
8. Which local government do you interact with most? Shire of Carnarvon
9. Would you like to be updated on the progress of the *Local Government Act 1995* review and further opportunities to have your say?
 - a. Yes
 - b. No
10. Do you wish for your response to this survey to be confidential?
 - a. Yes
 - b. No
11. What is your email address? [REDACTED]
12. What matters need to be considered in complaints management policies and procedures (please select all that apply)
 - a. How the application must be made
 - b. How a response to a complaint is to be made
 - c. Opportunities for a review of a response
 - d. The timeframes related to the process or review

- e. Notification requirements of the process
- f. Reporting of the complaints received
- g. Internal independent review of complaints
- h. None of these options
- i. Other (please specify)

13. To what extent do you support this statement?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
“A customer service charter should set the framework for local government complaints management.”				x	

14. Should a local government customer service charter be a legislative requirement?

- a. Yes
- b. No
- c. Unsure

15. Who should review unresolved complaints (please select all options that apply)?

- a. Different staff member in the local government
- b. A qualified complaints management officer
- c. A committee created by the local government
- d. A tabled decision for council to determine
- e. None of the people or groups listed above
- f. Other (please specify) **A group of peers.**

16. Do you have any additional comments on the topic of complaints management?

Additional information can also be provided to the review team via email at actreview@dlgsc.wa.gov.au.