



Rural City of
Wangaratta

Major Council Policy Community Impact Statement

Complaints Policy

Council provides the following information to the community in respect of this major council policy.

PART A – General

Council must adopt a new complaints policy (the policy) because of the commencement of the *Local Government Act 2020* (the Act).

The policy will replace the Complaints Handling Policy adopted by council in 2016.

Council must adopt the policy within 6 months of the commencement of section 107 of the Act. Section 107 of the Act commenced on 1 July 2021. Consequently, the policy must be adopted by 31 December 2021.

The policy is a major council policy which means that the process of community consultation set out in the Major Council Policy Local Law applies.

This community impact statement has been prepared to inform the community about the policy and to assist any member of the public who may wish to make a submission to council.

PART B – Background

The policy must include:

- (a) a process for dealing with complaints made to the council
- (b) a process for reviewing any action, decision or service in respect of which the complaint is made
- (c) a discretion for the Council to refuse to deal with a complaint which is otherwise subject to statutory review
- (d) the prescribed processes for dealing with complaints about the Council
- (e) the prescribed processes for internal review of complaints made to a Council
- (f) the prescribed processes for exercising the discretion referred to in paragraph (c)
- (g) any other matter prescribed by the regulations

There are currently no regulations prescribing the matters in (d), (e), (f) and (g) in the foregoing paragraph.

The Act also requires that a review process in the policy must provide for a review that is independent of:

- (a) the person who took the action; and
- (b) the person who made the decision; and
- (c) the person who provided the service.

The Act defines a complaint, for the purposes of the complaints policy, as including the communication, whether orally or in writing, to the council by a person of their dissatisfaction with:

- (a) the quality of an action taken, decision made or service provided by a member of Council staff or a contractor engaged by the Council; or
- (b) the delay by a member of Council staff or a contractor engaged by the Council in taking an action, making a decision or providing a service; or
- (c) a policy or decision made by a Council or a member of Council staff or a contractor.

PART C – Proposed policy

The policy has been developed with reference to the following documents:

- *Local Government Act 2020*
- Wangaratta Rural City Council (2016) Complaints Handling Policy
- Victorian Ombudsman (2021) Councils and complaints – A good practice guide 2nd edition

The purpose of the policy is to support effective complaints handling. It aims to set up a framework which acknowledges that people have the right to complain, helps people to make complaints and receive timely responses to those complaints so that service delivery can be improved.

Complaints must relate to matters, products or services for which council has jurisdiction or responsibility.

The policy is based on a simple structure that includes the following sections:

- How to make a complaint
- Reasonable conduct
- Complaints process
- Responsibilities
- Privacy

The policy meets the requirements of the Act and is based on the approach taken in council's current Complaints Handling Policy together with the Victorian Ombudsman's 2021 publication - *Councils and complaints – A good practice guide 2nd edition*.

PART D – Consultation

Under the provisions of the major council policy consultation local law, council is required to give public notice of the proposed policy and invite submissions for a period of at least 28 days.

Anyone who makes a written submission can request to be heard in support of their submission by a committee of council.

A copy of the proposed policy is available from the council's website..

PART E – Overall impact assessment

Legislative context

There is no overlap with existing legislation.

The proposed policy has no relevance to the Planning Scheme.

Risk assessment

The proposed policy, upon adoption, enhances Council's arrangements for good governance and decision-making by mitigating reputational and governance risks associated with complaints.

The policy ensures that the council is compliant with the Act.

Policy approach adopted

No other legislation can be used. The policy must be adopted.

The proposed policy is a standalone instrument that effectively addresses the issue and of the prescribed elements of the Act.

The proposed policy does not impose any increased costs on the community.

Restriction of competition

Council has conducted a review of the proposed policy in accordance with National Competition Principles. The results of that review are attached.

The proposed policy relates to the council's complaints handling arrangements.

There are no National Competition Policy implications associated with the proposal.

Permits

The proposed policy does not make provision for the issue of permits.

Fees

The proposed policy does not prescribe any fees.

Comparison with neighbouring and like Councils

Other councils are following this approach.

Charter of Human Rights

Council has assessed the proposed policy for compatibility with the Charter of Human Rights and Responsibilities. A report of this assessment is attached. The proposed policy is compatible with the Charter of Human Rights.

Consultation

In the process of developing the policy, consultation will be undertaken in accordance with the major council policy consultation local law.

All submissions and any proposed changes will be considered by council prior to the policy being adopted.

Submissions

Submissions are invited from the community regarding the policy in accordance with the major council policy consultation local law.

A notice to this effect will be advertised in a local newspaper on 5 November 2021 and on Council's website indicating that submissions will be received up to 5.00pm on 3 December 2021.

Persons making submissions can request an opportunity to be heard in respect of their written submission. A committee of council will be established to hear submissions on the proposed policy if required.

All submissions will be considered by Council when deciding to adopt the policy.



Rural City of
Wangaratta

Proposed Policy Human Rights Charter Assessment

As from 1 January 2008 Council is required to act in accordance with the Human Rights Charter, and to consider human rights when making a decision.

The Charter is a law that protects the rights of all people in Victoria. It introduces standards and a framework to assist public authorities to consider the rights of all interested parties, and to be better able to strike a balance between an individual's rights and those of competing public interests.

The rights in the Charter may be subject to reasonable limitations to achieve this balance. As with all discerning decision making, if limitations are applied, this must be documented.

There are twenty rights listed in the Charter that promote the principles of freedom, respect, equality, and dignity. These are listed at the end of this document.

Section	Rights impacted positively	Rights impacted negatively
How to make a complaint	Right to hold an opinion and freedom of expression	
Reasonable conduct		Right to hold an opinion and freedom of expression There is an expectation that parties to a complaint will behave in a reasonable manner
Complaints process	Right to hold an opinion and freedom of expression Right to a fair hearing	
Privacy	Right to privacy and to protect your reputation	

The proposed policy is compatible with the Charter of Human Rights as its positive impacts on the right to hold an opinion and freedom of expression, the right to a fair hearing and the right to privacy and to protect their reputation when a person makes a complaint outweigh the negative impact of managing unreasonable conduct.

Victoria's Charter of Human Rights and Responsibilities

The Charter sets out the rights, freedoms and responsibilities that are shared by all Victorians and protected by law.

The Charter protects the following rights in Victoria:

- Right to be recognised and treated equally before the law;
- Right to life and to not have your life taken without a lawful reason;
- Protection from cruel treatment or punishment, including torture and medical treatment without consent;

- Freedom from forced work or slavery;
- Right to move freely within Victoria, to come into and leave Victoria, and to choose where to live;
- Right to privacy and to protect your reputation;
- Freedom of thought, conscience, religion, and belief;
- Right to hold an opinion and freedom of expression;
- Right to gather together, take part in a peaceful demonstration or protest, and to join groups such as political, sport or union groups;
- Protection of families and children;
- Right to take part in public life, including the right to vote;
- Right to enjoy your culture, practise your religion, and speak your language;
- Right not to have your property taken away, unless the law says it can be taken;
- Right not to be arrested or detained unfairly, and right to the security of person, such as protection from harassment and threats in everyday life;
- Right to be treated humanely when arrested or detained;
- Protection of children in the criminal process;
- Right to a fair hearing;
- Rights in criminal proceedings including the right to be presumed innocent until proved guilty; and
- Right not to be tried or punished more than once for the same crime.



Rural City of
Wangaratta

Proposed Policy National Competition Policy Assessment

The policy must not restrict competition unless it can be demonstrated that: -

- The benefits of the restrictions to the community outweigh the costs; and
- The objectives of the policy can only be achieved by restricting competition.

This report applies the competition test to the proposed policy.

The proposed policy does not contain any restriction on competition.