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# Complaints Policy

November 2021



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# Complaints Policy



## Council Policy

<b>Responsible director</b>	Director Corporate and Community Services
<b>Responsible officer</b>	Manager Governance and Civic Support
<b>Functional area</b>	Governance
<b>Date adopted</b>	8 November 2021
<b>Review date</b>	November 2025

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### Purpose

The policy provides the framework for a consistent council-wide approach to dealing with complaints and documents the complaint handling processes to enable an accessible, responsive, and transparent service to customers.

### Scope

Dealing with complaints is a core part of council business and we welcome feedback if our customers are not entirely happy with the service they have received from council. We value complaints and encourage people to contact us when they have a problem with our services, actions, decisions, and policies and see this as an opportunity to improve our service to the community.

We are committed to:

- **enabling** members of the public to make complaints to and about the council
- properly considering and responding to concerns through a combination of established **customer request systems** and a **positive organisational culture** that recognises an individual's right to complain
- responding to complaints by **acknowledging the complaint** and **taking action** to resolve complaints as quickly as possible
- treating complaints **fairly** and making **objective** and **evidence-based** decisions
- communicating outcomes effectively
- learning from complaints data and analysis to foster **continuous improvement** and ensure **accountability** in our complaint handling performance
- ensuring all staff who deal with complaints are **skilled in customer service** through adequate training and support.

We treat every complaint we receive on its merits, through clear and consistent processes.

Our complaints policy applies to all complaints from members of the public about council staff, council contractors and decisions made at council meetings. This policy does not apply to complaints about individual councillors and the processes to manage complaints against councillors are documented in the council's *Councillor Code of Conduct*.

## Background

Councils are the tier of government that often have the most direct contact with the public and, unsurprisingly, councils deal with high numbers of complaints about services and the need for improvement.

Council must under section 107 of the *Local Government Act 2020* develop and maintain a complaints policy that includes:

- a process for dealing with complaints made to the council
- a process for reviewing any action, decision or service in respect of which the complaint is made
- discretion for the council to refuse to deal with a complaint which is otherwise subject to statutory review and the prescribed processes for exercising the discretion
- the prescribed processes for dealing with complaints about the council
- the prescribed processes for internal review of complaints made to the council.

## Policy Objective

### ***How to make a complaint***

Anyone who has been affected by a decision or action (including a failure to make a decision or take action) can make a complaint. A staff member is available to help people with additional needs to make a complaint.

- In the first instance a complainant is encouraged to:
  - resolve their problem and to get more information about the relevant activity or service by checking out the council's website or speaking to council staff
  - try and raise their concerns directly with the council staff member or council contractor involved
- If the initial communication with the council is not successful in resolving the problem, the complainant will be advised that they may consider making a more formal approach to council.
- If the formal complaint is not resolved, the complaint can be escalated to a more senior officer and the complainant will be advised of the next steps officers will take.

Complaints should include as much information as possible to assist council in understanding the complaint details and can be made as follows:

Telephone: 03 5358 8700

Online: From [www.ngshire@ngshire.vic.gov.au](http://www.ngshire@ngshire.vic.gov.au) click on 'Contact Us', then go to the online form 'Contact us'.

Email: [ngshire@ngshire.vic.gov.au](mailto:ngshire@ngshire.vic.gov.au)

Post: In writing to the Chief Executive Officer, Northern Grampians Shire Council, PO Box 580, Stawell VIC 3380

In person: Town Hall, 59-69 Main Street **Stawell**  
Town Hall, 40 Napier Street **St Arnaud**

A staff member is available to help members of the public to make complaints if needed.

NRS: People who are deaf or have a hearing or speech impairment can call through the National Relay Service that provides communication boards and other aids to communicate

Information that might be helpful for a complainant to provide to the council includes:

- Name and contact details. A complainant can choose to remain anonymous, but this may limit how council can respond.
- Identify the action, decision, service, or policy that is the subject of the complaint and why the complainant is dissatisfied.

- Relevant details such as dates, times, location or reference numbers and documents that support the complaint.
- The expected outcome from the complaint.

We are committed to ensuring our complaints process is accessible to everyone and complainants will be asked to tell us if they have specific communication needs or barriers. We can assist by:

- using an assistance service such as an interpreter or TTY (for free)
- talking with the complainant if they have trouble reading or writing
- providing information in accessible formats
- communicating through another person acting on a complainant's behalf if they cannot make the complaint themselves.

We will not investigate any complaint if the complainant abuses, harasses or threatens the safety or welfare of council staff or councillors.

### ***Discretion to refuse to deal with complaints***

We reserve the right to refuse to deal with complaints that can otherwise go through a statutory review process, which means complaints where there is a review or appeal to a tribunal, eg the Victorian Civic and Administrative Tribunal (VCAT) or a court, under an Act or regulation. Complaints of this type usually concern a particular subject matter, such as infringements, planning, or public health.

Council's reasons for refusing to deal with a complaint that is otherwise subject to statutory review might include:

- the statutory review process is already underway
- it is reasonable in the circumstances to expect the complainant to go through that review process
- a tribunal or court will settle or determine the matter faster
- the complaint relates to a specialised area, and it is proper that a tribunal or court make a binding determination on the matter (noting the determination's possible precedential effect)

We can still deal with these complaints through our complaints process; however, the discretion ensures the supremacy of statutory review processes.

If council exercises the discretion to refuse these types of complaints, it will provide its reasons.

Council can decide not to exercise this discretion when we believe it is better for council and the complainant to deal with a complaint outside the statutory review process, eg a satisfactory resolution can be achieved faster and at less cost. If we decide to not exercise the discretion it does not waive the complainant's right to access the statutory review process.

### ***Our complaints process***

When a complaint is made to us, we will record and acknowledge it within five business days. We will initially assess the complaint to decide how we will handle it. This may happen while we are talking with the complainant.

After our initial assessment, we may:

- take direct action to resolve the complaint
- refer the complaint to the relevant team or manager for investigation
- decline to deal with the complaint if the complainant has a right to a statutory review of their complaint (such as a right of appeal to VCAT).

Where possible, we will attempt to resolve the complaint at the time the complainant first contacts us. If we decide not to take action on the complaint, we will explain why, and, where possible, inform the complainant about other options.

- Early resolution of a complaint may involve arranging for the council to give advice or explaining why we are not going to act on the complaint.
- It may not be possible to resolve a complaint when a complainant first contacts us if the complaint requires deeper consideration or investigation by a particular team or officer, needs to follow a statutory process or cannot be resolved satisfactorily.

While most problems can be resolved by initial communication with council officers there may be times when it is necessary to make a more formal complaint. If it is necessary to make a formal complaint it should be lodged first with council for investigation and resolution before making a formal complaint to another organisation.

### ***Administrative complaints***

The Chief Executive Officer (CEO) is appointed by council to employ and manage all staff and to ensure council decisions are implemented.

Complainants can reasonably expect the CEO to give their complaint proper consideration or direct it to an appropriate person to consider and to provide a helpful response. Council will endeavour to resolve all complaints within one month; however, where the matter is more complex this time may be significantly extended.

We take a **four-tiered** approach to the handling of complaints, as follows:

1. **First-contact complaint resolution:** frontline staff receive the complaint, assess it, and resolve it immediately, if possible.
  - We will acknowledge all complaints within five days of receipt.
  - Frontline staff will receive the complaint.
  - Frontline staff will clarify the complaint and the outcome the complainant is seeking.
  - Frontline staff will assess the complaint to determine how it should be dealt with:
    - to keep and resolve the complaint themselves; or
    - to transfer the complaint if it requires specialist expertise, advice or investigation; or
    - to decline the complaint if there is a more appropriate pathway the complainant should use.
  - If a solution cannot be immediately found, we will explain what will happen next and why.
  - We will not investigate any complaints that fall outside of council's authority.
  - If council is not the right organisation to respond to the complaint, frontline staff will advise the complainant of an organisation that may be able to help.

2. **Investigation (if required):** if frontline staff cannot resolve the complaint, they will refer it to an officer with specialist expertise for investigation.
- The officer handling the complaint will advise the complainant that they are now the contact person and provide their details.
  - The contact person will inform the complainant how long it will take to respond to their complaint.
  - Complaint handling staff will aim to resolve all complaints within 30 days.
  - If it takes longer than 30 days to resolve a complaint, the contact person will contact the complainant before or at this time and explain why.
  - Complaints that are not resolved within 30 days may be escalated if necessary to ensure that a resolution is expedited.
  - If required, we will update the complainant every 30 calendar days about progress until the investigation is completed.

As part of the investigation, the officer will gather additional information to make an evidence-based decision and remedy (if any):

- Assess the information against relevant legislation, policies, and procedures
- Refer to council documents and records
- Meet affected parties to consider workable solutions

The officer will provide a written outcome that explains the council's decision.

3. **Internal review:** An internal review looks at whether a complaint was managed appropriately and whether the decisions were sound. If the complainant is dissatisfied with our decision and how we responded to their complaint, they can request an internal review. A senior council officer conducts an independent internal review and looks at whether the complaint should have been dealt with differently. This can lead to the original decision being upheld or overturned.

The officer will not have had any prior involvement with the complaint and will be independent of the person who took the action, the person who made the decision and the person who provided the service.

We will:

- acknowledge the review request
  - explain the process, including the timelines for conducting the review, what we will and will not look at, and the possible outcomes
  - provide the complainant and any other parties with an opportunity to present their case
  - provide a written outcome, clearly explain our reasons, and detail any remedies, within 30 calendar days of the date of the request for an internal review
  - update the complainant every 30 calendar days about progress until the investigation is completed, if required
  - offer external review options if parties are dissatisfied with the outcome
4. **External review:** The outcome letter will advise the complainant of any avenues of external appeal or review available for the matter. Where a complainant still believes we have made a wrong decision, they can seek an external review. This generally involves a complaint being escalated to an external body that can deal with different types of complaints about us. Council will contribute to tier 4 by participating in and cooperating with the external review process and implementing any recommended improvements.

Complaint	Organisation to contact for external review
Actions or decisions of a council, council staff and contractors. This includes failure to consider human rights or failure to act compatibly with a human right under the <i>Charter of Human Rights and Responsibilities Act 2006</i>	Victorian Ombudsman <a href="http://www.ombudsman.vic.gov.au">www.ombudsman.vic.gov.au</a>
Breaches of the Local Government Act	Local Government Inspectorate <a href="http://www.lgi.vic.gov.au">www.lgi.vic.gov.au</a>
Breach of privacy. Complaint about a freedom of information application.	Office of the Victorian Information Commission <a href="http://www.ovic.vic.gov.au">www.ovic.vic.gov.au</a>
Corruption or public interest disclosure ('whistleblower') complaint	Independent Broad-based Anti-Corruption Commission <a href="http://www.ibac.vic.gov.au">www.ibac.vic.gov.au</a>
Discrimination	Victorian Human Rights and Equal Opportunity Commission <a href="http://www.humanrights.vic.gov.au">www.humanrights.vic.gov.au</a>
Council elections	Victorian Electoral Commission <a href="http://www.vec.vic.gov.au">www.vec.vic.gov.au</a>

### **Complaints about the Chief Executive Officer (CEO)**

Complaints about the CEO will be directed to the Mayor who will deal with the complaint and investigation in a confidential manner and determine whether the complaint might be referred to the Local Government Inspectorate, the Victorian Ombudsman or IBAC. The Mayor will liaise with the Director Corporate and Community Services to ensure the complaint process and outcome are documented.

### **Formal Council decisions**

Possible ways to raise a concern with council include:

- speaking with, or writing to, councillors
- requesting to speak on a matter at a meeting of the council
- raising the matter during public question time at a council meeting

In some cases, the process of making formal council decisions involves public consultation and council staff will be able to advise the complainant of council's public participation process.

Complaints about formal council decisions will be investigated by the CEO.

If customers want to find out about a council decision, the council minutes include both the report considered by the council and the precise wording of the council decision. Some reports such as contracts are confidential and only the decision will be published. Minutes are also published on the council's website and copies are available from council's offices upon request.

### **Complaints about contractors**

We recognise that we retain a level of responsibility for services carried out by contractors on our behalf. Where council receives complaints about contractors, council will monitor the way contractors deal with complaints and have clear oversight of their complaint handling process.

Contractors will liaise with the relevant staff member about the response to be provided to complaints. If a complainant is not satisfied with the outcome of the complaint, they can ask council to review the decision.

All outcome letters written by contractors about complaints will include the name and contact details of the member of council staff to whom the complainant may escalate their complaint if they are not satisfied with the outcome the contractor has provided. The member of council staff for escalation of the complaint will be the responsible Director.

### ***Anonymous complaints***

Whilst anonymous complaints will not be rejected, they may limit the ability of officers to fully investigate the problem depending on the amount of information supplied.

If the complaint appears to relate to public safety, then an investigation and rectification will be undertaken if found necessary.

If the complainant remains anonymous and the complainant is abusive or derogatory of council staff or councillors no further action will be taken.

Due to the anonymity, council will be unable to provide reasons for any decisions or actions taken. If insufficient information is deemed to have been supplied, no further action will be taken.

### ***Public Interest Disclosure complaints***

These are complaints of improper conduct of public bodies or public officers, or detrimental action taken by a public officer or body against a person in reprisal for having made a public interest disclosure. Council's *Public Interest Disclosures Procedures* is available on the council's website.

We will allocate appropriate security to public interest disclosures to reduce the risk of unauthorised access to complaint information.

### ***Confidentiality and Privacy***

Council must responsibly collect, handle and protect personal information under privacy and information laws. Personal information gathered from a complainant during complaint handling will only be:

- used to respond to the complaint or for a reasonable secondary purpose, such as monitoring complaint trends to improve services that relate to complaints
- disclosed in a de-identified format where data is reported on more widely or publicly released (data may only be released publicly if it cannot be re-attributed to a person)
- accessed by council staff where necessary to deal with the complaint, or for a related secondary purpose (eg to identify systemic trends).

Complaint information will be stored securely in council's customer request management and electronic records management systems to help prevent unauthorised access, modification or disclosure of the information. Personal information will not be disclosed without the complainant's consent except where authorised by law.

We will be transparent and provide the information requested by the complainant which is relevant to their complaint where permitted by law.

### ***How we learn from complaints***

We will **distinguish between a complaint and service request** and properly record them so that we can accurately measure council's performance and use that information to improve services.

Complaints from people who use or who are affected by our services provide us with valuable feedback about how we are performing. We regularly analyse our complaint data to identify trends and potential issues that deserve further attention. We use this information to come up with solutions about how we can improve our services. We are open and transparent about the complaints we have received, and what we have done to resolve them.

### ***What is not considered a complaint?***

- A request for something additional or new (**a service request**)
- Reports of a hazard (eg fallen tree)
- Reports concerning neighbours that trigger the legislation, local law or other regulations administered or enforced by the council to be enacted (eg dog barking, noise issues)
- A request for information or an explanation of a policy or procedure
- Decisions made under legislation which provides for separate avenues of appeal (eg Building Act decisions and General Local Law prosecutions)
- An alleged breach under the Councillor Code of Conduct

### ***Remedial action***

Where we have found that we have made an error, we will take steps to redress the situation. Possible remedies include, but are not limited to:

- an explanation of why the error occurred and the steps taken to prevent it from happening again
- a reversal of a decision
- an ex-gratia payment or compensation
- disciplinary action taken against a staff member
- providing the means of redress requested by the complainant

Where we identify an error, we will consider offering a genuine apology to the complainant, in addition to any other remedies offered, irrespective of whether the complainant specifically requests this.

### ***Unreasonable conduct and challenging behaviour***

We require our staff to be respectful and responsive in all their communications with members of the public. We expect the same of members of the public when they communicate with our staff and may change the way we communicate with a complainant if their conduct/behaviour is unreasonable or challenging.

Council officers will not tolerate behaviour that is offensive, abusive, threatening or consumes disproportionate resources. Where required, officers will use the framework (Prevent-Respond-Manage-Limit: a last resort), tools and tips for complaint handlers in the Ombudsman's *Good Practice Guide to Dealing with Challenging Behaviour* to manage these situations and the impact of the conduct/behaviour while recognising that the complainant may still have a valid grievance that needs to be addressed.

We will provide training opportunities for officers to assist them to deal with unreasonable complainant conduct and challenging behaviour and support officers where the conduct is affecting their wellbeing.

### ***Neighbourhood disputes***

Occasionally council receives a complaint involving neighbours which in many instances cannot be resolved by council. On these occasions, council may direct complainants to external resources including the Dispute Settlement Centre of Victoria (Grampians region) on 03 4301 7000 (Ballarat) or 03 4344 1444 (Horsham).

### **Understanding broader constraints**

Council must act in the best interests of the entire community and will have to take account of other people's needs as well as financial and legal restrictions.

If the problem affects other people, their needs or views may be quite different from the complainant's needs or views. Alternatively, the council may not be able to afford the cost of works or services that could resolve the problem or it may be unable to do something because of laws that prevent or require actions.

In the end, there may need to be a compromise or even acceptance that the council cannot do what the complainant wants. If this happens the council will give the complainant an explanation as to why it cannot do what was asked.

### **Legislation and Standards**

*Australian/New Zealand Standard, Guidelines for complaint management in organisations (AS/NZS 10002:2014*  
*International Organization for Standardization, Quality management – Customer satisfaction – Guidelines for complaints handling in organizations (ISO 10002:2018) (2018)*  
*Local Government Act 2020*

### **Responsibilities**

<b>Role</b>	<b>Responsibilities</b>
Councillors	<ul style="list-style-type: none"> <li>Familiarise themselves with this policy and the complaint process</li> <li>Refer complaints about council operations from constituents to the CEO</li> <li>Inform complainant their complaint has been referred to council's administration for a response</li> <li>Follow protocols for interacting with council staff and not seek to influence or direct staff on how to deal with a complaint</li> </ul>
Chief Executive Officer	<ul style="list-style-type: none"> <li>Promote positive behaviours and practices relating to enabling, responding to, and learning from complaints</li> <li>Support service improvements that arise from complaints</li> <li>Review and publish complaint data.</li> </ul>
Directors and managers	<ul style="list-style-type: none"> <li>Fostering a collective commitment to complaint handling and welcoming complaints</li> <li>Recruit, train and empower staff to resolve complaints promptly and in line with council's policies and procedures</li> <li>Manage conflicts of interest in the complaint process</li> <li>Report on and identify improvements from complaint data</li> <li>Support Customer Support and frontline staff who deal with complaints</li> </ul>
Customer Support/Frontline staff	<ul style="list-style-type: none"> <li>Develop technical expertise and interpersonal skills to resolve complaints</li> <li>Understand council's services and complaint process</li> </ul>
All council staff	<ul style="list-style-type: none"> <li>Familiarise themselves with this policy and the council's complaint process</li> <li>Help people to complain and to understand the complaints process</li> <li>Treat members of the public respectfully and professionally</li> </ul>
Contractors	<ul style="list-style-type: none"> <li>Familiarise themselves with this policy and the council's complaint process</li> <li>Cooperate with the council's complaint handling processes</li> </ul>

## Review

Assessment of the policy will be undertaken every four years to align with the council term to ensure it remains current with the council's goals, processes, aims and requirements and as a means by which to reduce council's exposure to risk. Triggers for an earlier assessment include legislative changes and the introduction of new systems or procedures.

## Communication and implementation

The policy will be available in the EDRMS and communicated to all staff through EmployeeMatters and staff and councillor inductions, the NGSC Learning and Development Hub and regular refresher training. The policy will also be made available to the community via the council's website or in accessible formats upon request.

## References

- [Victorian Ombudsman, Councils and complaints - a Good Practice Guide \(Version 2\), 2021](#)
- [Victorian Ombudsman, Good Practice Guide to Dealing with Challenging Behaviour, May 2018](#)
- [Victorian Ombudsman, Complaints: Good Practice Guide for Public Sector Agencies, 2016](#)
- [Victorian Ombudsman, Managing Complaints involving Human Rights Good Practice Guide 2017](#)

## Compliance

- ✓ *Local Government Act 2020*
- ✓ [Gender Equality Act 2020](#)
- ✓ [Privacy and Data Protection Act 2014](#)
- ✓ [Charter of Human Rights and Responsibilities Act 2006](#)
- ✓ *Health Records Act 2001*
- ✓ *Freedom of Information Act 1982*
- ✓ *Public Interest Disclosures Act 2012*
- ✓ *Records Management Act*

## Privacy and Data Protection compliance

This policy considers the *Privacy and Data Protection Act 2014* and the *Victorian Protective Data Security (VPDSS) Framework* and the risk of unauthorised disclosure of personal information. Council's procedures and IT systems will be used to protect the security of complaints information.

## Gender Equality compliance

Council has considered relevant gender equality principles in this policy. Officers will actively assist people with a range of needs to complain and navigate the complaints process. We will treat everyone fairly and respectfully.

## Charter of Human Rights compliance

This policy has a positive impact on the following Human Rights:

### **Privacy and reputation**

A person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with and the right not to have his or her reputation unlawfully attacked.

### **Freedom of expression**

People are free to have an opinion and say what they think. They have the right to find, receive and share information and ideas. This right might be limited to respect the rights and reputation of other people, or for the protection of public safety and order, public health or public morality.

Council will process complaints involving human rights in line with the *Ombudsman Good Practice Guide Managing Complaints involving Human Rights, 2017*.

## Definitions

**challenging behaviour** is any complainant behaviour that staff find difficult.

A **complaint** to a council is any communication that involves the following:

- an expression of dissatisfaction
- about an action, decision, policy, or service
- that relates to council staff, including the CEO, a council contractor, or the council as a decision-making body (not individual Councillors, who are subject to different processes)

A complaint includes the communication, whether orally or in writing, to the council by a person of their dissatisfaction with—

- 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
- 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
- a policy or decision made by a council or a member of council staff or a contractor.

The definition of complaint does not consider:

- the merit of the complaint or issue complained about
- how the matter will be resolved or responded to
- the complainant's motivations.

It should not be trivial, frivolous, or vexatious and should contain sufficient information/detail to ensure the complaint can be investigated in full and in a timely fashion. The complaint **must** relate to matters that the council has the jurisdiction to resolve.

**complaint handling system** refers to all policies, procedures, practices, officers and resources an agency deploys to manage complaints

**council** means the body of elected councillors

**council contractor** is any third party engaged by the council to carry out functions on the council's behalf

**council staff** is any person employed by the council to carry out the functions of the council, and the council's Chief Executive Officer

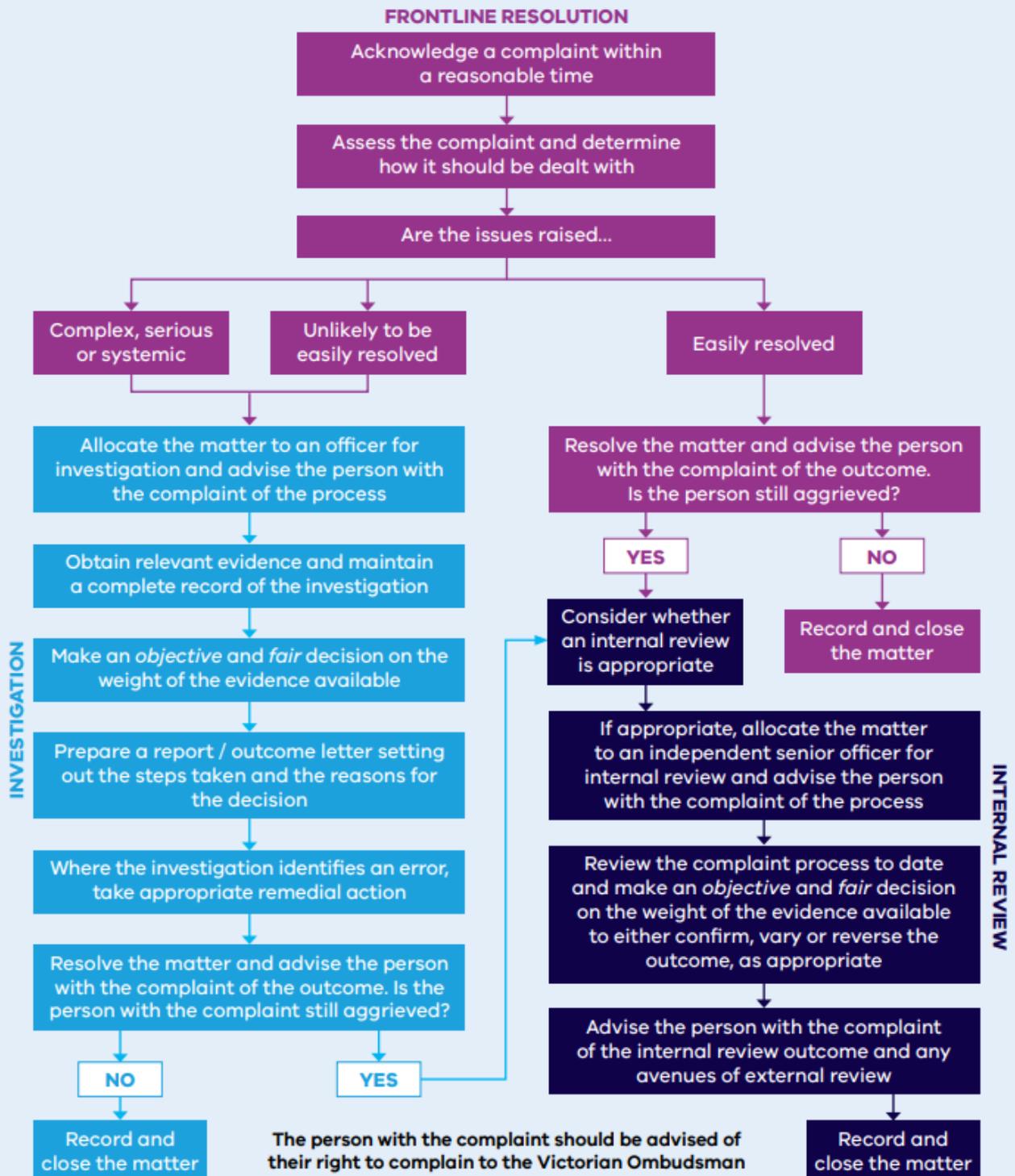
**formal council decision** is a decision made by council at a council meeting. As council staff are required to implement the council's decisions, it may require a formal council decision to resolve the particular problem

**service request** means a request for something additional or new

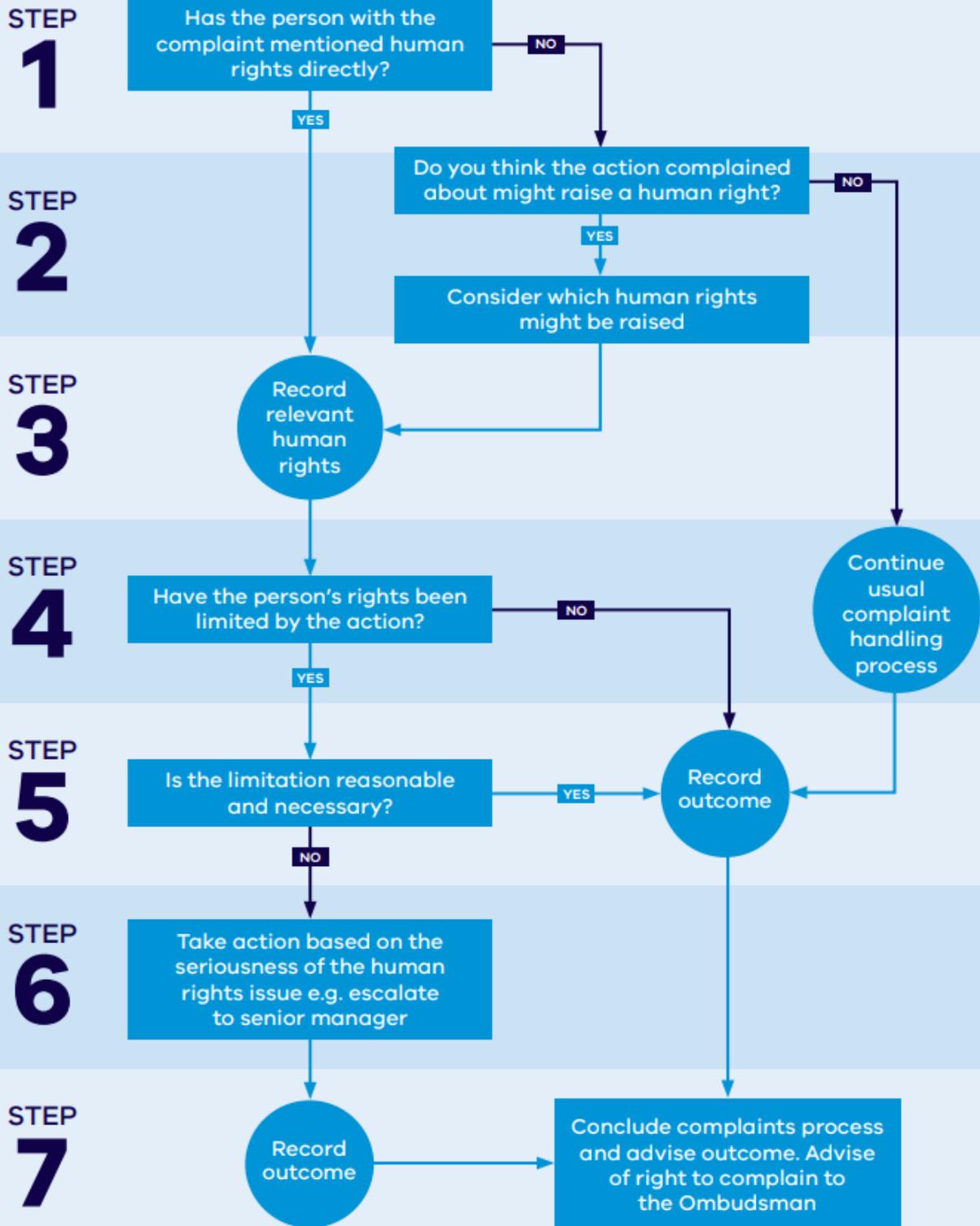
**unreasonable conduct** is behaviour that, because of its nature or frequency, raises substantial health, safety, resource or equity issues for complaint handlers.

## A: Complaints handing flowchart

This flowchart shows how a tiered approach to complaint handling can work in practice.



## B: Flowchart – considering human rights issues in complaints



**Review history**

<b>Date</b>	<b>Review details</b>	<b>Action</b>
November 2018	Procedure reviewed and new policy written to align with Ombudsman's Councils and complaints Good Practice Guide policy template	
September 2021	Policy reviewed and updated to align with updated version of Ombudsman's Councils and Complaints – A Good Practice Guide (Version 2) and LGA 2020	Reported to ELT Reported to Councillor Briefing Reported to Council
8 November 2021	8 November Council Meeting	Adopted by Council