

**Councils and complaints – A report on current practice
and issues**

February 2015

**Ordered to be published
Victorian government printer
Session 2014 - 15
P.P. No. 21
Vol 1 of 2**

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973*, I present to Parliament my report into *Councils and complaints – A report on current practice and issues*.



Deborah Glass OBE

Ombudsman

24 February 2015

Contents

Foreword	3
Introduction	4
Background	4
Enquiry and methodology	4
Survey results and consultation findings	6
What is a ‘complaint’?	6
Recommendation 1	9
Customer service charters	9
Perception of complaints	9
Complaint handling policies and procedures	10
Recommendation 2	11
Recording basic complaint data effectively	11
Improving complaint reporting and analysis	12
Key performance indicators	13
Handling complaints made directly to councillors	14
Anonymous complaints	15
Managing unreasonable complainant conduct	15
Different approaches to complaints about third party contractors	16
Managing complainants’ expectations	17
Recommendation 3	18
Complainants’ right to complain to the Victorian Ombudsman	18
Appendices	19
Appendix 1 – Stakeholders consulted	19
Appendix 2 – Self-audit results	20
Appendix 3 – Metropolitan, regional and rural councils	23
Appendix 4 – Councils and complaints – A good practice guide	25

Foreword

Every Victorian has a relationship with his or her local council. Victoria's 79 councils – metropolitan, regional and rural – deal with both people and property, including roads, libraries and parks, and a wide range of issues including planning, parking and waste collection. The work of councils is evident in every street of every town and suburb in Victoria. For many people, their main interaction with government is with their local council, and it is therefore not surprising that complaints about local councils have been one of the highest categories of complaint to the Ombudsman for many years.

This enquiry was launched in 2014 when staff in my office identified that one of the main causes of complaints against local councils was the way those councils dealt with complaints. All too often complaints were seen as a nuisance, or provoked a defensive, bureaucratic or unhelpful response. Yet complaints are one of the most valuable sources of data available to councils. They represent free feedback about services and, if used effectively, are a catalyst for service improvement. Good complaint handling increases confidence in public administration. On the other hand, mishandled complaints can carry a high potential cost – both financial and reputational.

From the other side, councils often approach this office seeking information about their performance in relation to complaint handling and how this performance compares with other councils.

I decided therefore that the office would develop a *Good Practice Guide* – a practical tool to assist councils and improve their complaint handling practices. To ensure that it addressed the particular issues faced by local government, we carried out a survey of all 79 councils and consulted a wide range of people and organisations in the local government sector. From the responses we developed a draft Guide, which we circulated to all councils for comment.

There was not universal agreement about some core issues, in particular about the definition of a complaint. It seemed that those councils were worried that a more inclusive interpretation would result in a higher number of complaints, which would in turn have a negative impact on their reputation. In my view, a narrow definition of complaint misses the point that complaints, whether or not they are justified, are a feedback mechanism about public dissatisfaction. They are not a measure of how good or bad a council is, but of how responsive and transparent it is.

Overall however there was strong support for the Guide, which many councils commented would assist them and add consistency to the way they dealt with complaints. I am grateful for the support provided to my officers by councils during the enquiry, and I anticipate that the *Good Practice Guide* will serve as a useful resource for the local government sector for years to come.

I recommend two changes to legislation that I believe would benefit the public and the sector: to include a definition of complaint, consistent with the national standard¹, and to require councils to have an internal review function in their dealing with complaints. Both have been adopted elsewhere in Australia and the latter has increased accountability and reduced the number of substantiated complaints.

The main aim of the Guide is, of course, for councils to engage better with their public and learn from their complaints. The long-term effect should also be fewer legitimate grievances about councils coming to my office. While only time will tell, I hope that both of these objectives will be met.

Deborah Glass
Ombudsman

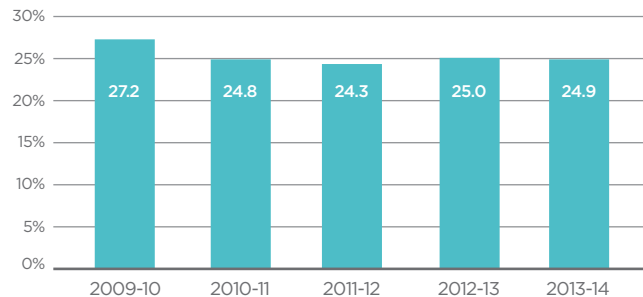
¹ Australian/New Zealand Standard AS/NZS 10002:2014, *Guidelines for complaint management in organizations*.

Introduction

Background

1. Councils play a vital role in the community. Victoria's 79 councils deliver a diverse range of property, economic, human, recreational and cultural services. They maintain infrastructure valued at more than \$40 billion – including roads, public buildings, libraries and parks² – and are also responsible for enforcing state and local laws relating to planning, public health, traffic, parking and animal management.
2. As the tier of government closest to the community, councils are one of the first public sector organisations people turn to when they want something done or they have a complaint. One metropolitan council receives around 650 telephone calls and 200 in person visitors each day³.
3. Given the volume of community contact and the diversity of issues raised, it can be challenging for councils to remain accessible and responsive to their communities. There is a community expectation that councils will deal with complaints about their services quickly and effectively. Having clear policies and processes about how and when a council will handle different types of complaints can assist in managing these expectations.
4. Complaints are a valuable source of data for councils and a catalyst for service improvements. When a person complains, they are telling the council something that can be used to improve its services. When councils create a positive culture around complaints, these benefits can be realised. On the other hand, if councils regard complaints as a nuisance and a distraction from core business, they remain an untapped resource.
5. As shown in Figure 1, since 2009, complaints about councils have consistently made up around 25 per cent of jurisdictional complaints to this office.

Figure 1: Closed complaints about local government received by the Victorian Ombudsman (%)



Source: Victorian Ombudsman 2014 Annual report, page 26.

6. An analysis of these complaints over a three-year period from 2011 to 2014 shows that the most common complaints about local councils relate to:
 - not responding in a timely manner
 - planning
 - rates
 - infringements.

Enquiry and methodology

7. In April 2014, I commenced an own motion enquiry into complaint handling in local government under section 13A of the *Ombudsman Act 1973*. The purpose of this enquiry was to develop a complaint handling guide that is targeted, practical and relevant to all councils, large and small.
8. In June 2014, I notified the CEO of each council, the former Minister for Local Government and a range of stakeholder groups of this enquiry. The former Minister, The Hon Tim Bull MP, responded:

I support your goal of providing additional guidance to the sector regarding complaints handling processes.

Councils are responsible for the delivery of a wide range of services to their constituents and as Minister I strongly support all councils ensuring the concerns of their residents are dealt with in a timely and effective manner.

² <www.dpcd.vic.gov.au/localgovernment/guide-to-local-government/what-councils-do at October 2014>.

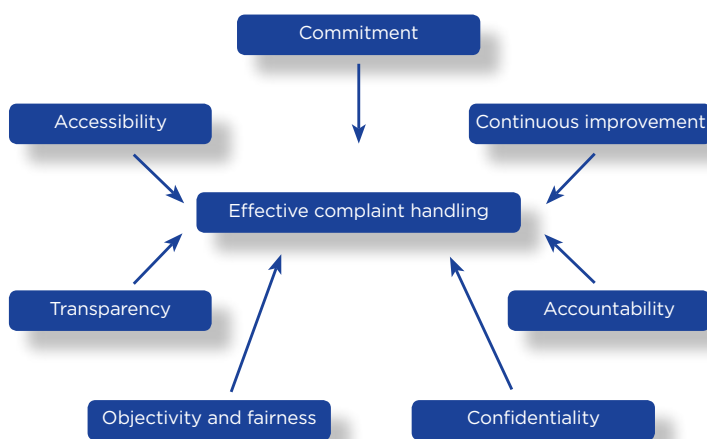
³ Knox City Council website <www.knox.vic.gov.au>.

9. This enquiry involved:

- analysing local government complaint data from our case management system between May 2011 to May 2014 to identify trends and common complaint areas
- researching complaint handling theory and practice, as well as local government complaint handling in other jurisdictions
- examining council websites for complaint handling information
- meeting with council staff, councillors, peak bodies, community groups and other stakeholders to further understand the issues around local government complaint handling
- issuing a pilot survey on local government complaint handling to six councils (three metropolitan, one regional and two rural) for their feedback
- surveying the 79 councils on their complaint handling policies, practices and issues
- developing a good practice guide, based on the information obtained during the enquiry, to assist local councils with complaint handling (the *Good Practice Guide* – refer to Appendix 4)
- providing the draft guide to all councils and key stakeholders to obtain their feedback.

10. The purpose of the *Good Practice Guide* is to foster a common standard for complaint handling in councils across Victoria. The guide is based on seven principles of effective complaint handling and addresses aspects of complaint handling unique to local government. The seven principles shown in Figure 2 were developed from the evidence obtained during our enquiry and established complaint handling theories and standards.

Figure 2: Seven principles of effective complaint handling.



Source: Victorian Ombudsman.

11. This report outlines the key results and themes arising from our consultation with councillors, council staff and other stakeholders, including survey responses. It provides the underlying basis for good practice in complaint handling and further illuminates the reasoning behind the content of the *Good Practice Guide*.
12. I am hopeful that as councils adopt the principles in the *Good Practice Guide*, their complaint handling practices will improve and there will be less call on this office to intervene in complaints that should, in the first instance, be effectively resolved by councils. This office can then fulfil its intended role as the 'safety net' for the more complex or contentious complaints that require independent review to resolve.

Survey results and consultation findings

13. All 79 councils responded to our complaint handling survey. Survey responses provided valuable information on sector-wide issues and identified that councils have different approaches to complaint handling. While some of these approaches are working well, others are not.
14. For example, the survey identified that there is variation across Victoria in the types of policies and procedures councils use to support their complaint handling practices:
 - 64 councils have a customer service charter
 - 57 councils have a complaint handling policy
 - 33 councils have an internal review policy for complaints.
15. Four councils have neither a customer service charter nor a complaint handling policy. Seventeen councils also reported that they have a customer service charter, but no complaint handling policy⁴. This is concerning given that service charters generally do not describe complaint handling procedures in detail.
16. Councils were surveyed about their views and approaches to complaint handling in relation to the following three key areas:
 - enabling complaints: how councils receive complaints
 - responding to complaints: how councils manage complaints
 - learning and improving: how councils use complaint data to improve service delivery.
17. This section of the report provides information on survey responses received from councils; statistical information, including survey results by metropolitan, regional and rural council locations (refer to Appendix 3 for details of these councils); councils' comments to me; and the reasons why I considered councils may benefit from guidance.

⁴ Of those councils, one council's charter outlines its complaint handling procedures in detail. Two other councils' charters state in detail how they deal with unreasonable complainant conduct.

What is a 'complaint'?

18. Councils often approach this office seeking information about their performance in relation to complaint handling and how this performance compares with other councils. In order to review performance across the sector, a common understanding of the term 'complaint' is necessary.
19. The Victorian Local Government Act does not require councils to have a process in place for managing administrative complaints. Nor does it provide a definition of the term 'complaint'. We reviewed local government legislation in Australian states and territories and identified that Queensland is the only jurisdiction which provides a legislative definition of complaint⁵.
20. Definitions and interpretations of the term 'complaint' used by Victorian councils in their policies and practices are varied. Fifty-six councils define the term 'complaint'. Four metropolitan councils, four regional councils and 15 rural councils do not define the term.
21. A common definition of complaint councils use is:

An expression of dissatisfaction related to service provision, policy or procedure or behaviour of employee.

However the interpretation of this definition and the exclusions applied to it vary considerably, for example:

- some definitions did not state that 'a complaint' could include dissatisfaction with third parties acting on behalf of a council.

⁵ Sec 268 of the *Local Government Act 2009* (Qld) states that:
(1) A local government must adopt a process for resolving administrative action complaints.
(2) An administrative action complaint is a complaint that -
(a) is about an administrative action of a local government, including the following, for example -
(i) a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision;
(ii) an act, or a failure to do an act;
(iii) the formulation of a proposal or intention;
(iv) the making of a recommendation; and
(b) is made by an affected person.

- three councils did not define the *initial* contact by a member of the public who was dissatisfied, as a complaint. For these councils, it was only when a person expressed dissatisfaction with the council's response to the initial contact, that the matter would be considered a complaint. For example, one council said:

... Even if at the outset ... if the customer expresses dissatisfaction about a matter, the approach should be to consider the matter an enquiry, initially to be dealt with by the relevant [council] work team ... If following a response to an enquiry, the customer continues to express dissatisfaction; the matter will be regarded as a complaint - *a metropolitan council*.

22. Of the 56 definitions of 'complaint' that councils provided:
 - 50 covered dissatisfaction with the council's service provision
 - 29 covered dissatisfaction with the conduct of a council employee
 - 24 covered dissatisfaction with council policies and procedures
 - 11 covered dissatisfaction with council decisions.
23. The distinction between 'complaints' and 'requests for service' also generates difficulties in comparing council responses.
24. Thirty-six councils define a 'request for service'. Twelve metropolitan councils, seven regional councils and 24 rural councils do not define the term.
25. Generally, those councils that defined the term, defined it as a routine request for a service offered by the council, including a service that may have been 'missed' or not provided and there was no prior indication of a council's failure to provide the service.
26. Several councils distinguish a complaint from a request for service, as follows:

[A request for service] is raising a matter for [a] standard service response and [a complaint is] that the service has been sub-standard - *a rural council*

We see a request for service as the first opportunity to rectify an issue. If the request for service is not completed in a timely manner or the quality of the work is poor, then we consider this a complaint. We need to have a chance to fix an issue before it constitutes a complaint - *a metropolitan council*

Requests for Service can generally be managed in a routine/template manner whereas complaints by nature require tailored, case-by-case consideration - *a rural council*.

27. The above definitions of 'request for service' are not consistent with general understandings of what it means to make a complaint. For example, there is no reason why an expression of dissatisfaction that a council has failed or refused to provide a service should be treated or recorded differently from an expression of dissatisfaction about the standard of a service provided. While a council's response to the first contact it receives on an issue that can easily be resolved may differ from its response to a contact where the complainant has repeatedly raised the issue without resolution (i.e. it may require an escalated response), the nature of the contact is essentially the same - it is an expression of dissatisfaction with the council. It therefore should be treated as a complaint.
28. Councils were surveyed about a proposed universal definition of complaint as 'any expression of dissatisfaction with a council'. Forty-three councils said that the definition was too broad and that:

The definition could be changed to clarify dissatisfaction about an action rather than a generalised statement e.g. decision, policy, service experience or how something was handled. The definition should also ensure that expectations are managed as many complaints relate to the complainant not getting the 'answer' they wanted – *a rural council*

A broad definition such as that proposed would mean that nearly any issue raised with council would be a complaint. Given their regulatory nature most people will express or regularly experience dissatisfaction with councils – *a rural council*.

Case study 1: Is a missed bin collection a complaint?

The *Good Practice Guide* includes a case study on missed bin collections. In commenting on the draft guide, one metropolitan council disagreed with categorising missed bin collections as complaints. The council stated that given the high number of collections it conducts (more than 60,000 bin collections per week), 'it would be impossible to have a faultless system' and therefore missed collections should not be considered complaints. I agree that it is unrealistic to expect a council to achieve perfect service, however, I do not consider this is a valid reason for not categorising missed collections as complaints. Despite councils' best efforts, mistakes will be made and bins will be missed. The goal is not to receive zero complaints. The goal is to record instances where a service has not been delivered, and analyse this data to see if improvements can be made.

Source: Victorian Ombudsman.

29. There will always be an element of subjectivity in deciding what constitutes a complaint and what does not, however, it is clear that some councils have adopted an unnecessarily narrow approach to categorisation. For example, one council said that it does not include complaints made by people who are considered unreasonably persistent or to be 'frequent flyers' in its complaint data, as this would lead to unnecessarily skewed figures. While I appreciate the concerns of the council, the preferable approach would be for councils to include all approaches which fall within the definition of 'complaint' within its data. When reporting, councils can explain any disproportionate trends or spikes in the number of complaints received.
30. While I have carefully considered the objections made by some councils to adopting a broad definition of complaint, I remain of the view that the definition of complaint should be centred on a person's dissatisfaction with a council. It should not be guided by a desire to minimise the number of complaints a council receives or by assumptions made about the validity of individual complaints or categories of complaint.
31. The definition of 'complaint' proposed in Recommendation 1 below, which is focussed on a complainant's dissatisfaction, is consistent with the definition provided in the recently released Australian/New Zealand Standard AS/NZS 10002:2014⁶, *Guidelines for complaint management in organizations*:

Expression of dissatisfaction made to or about an organization, related to its products, services, staff or handling of a complaint, where a response is implicitly expected or legally required.
32. Adopting a clear and consistent definition of 'complaint' across the local government sector will allow for meaningful data collection, analysis and service improvement.

⁶ AS/NZS 10002:2014 was approved on behalf of the Council of Standards Australia on 4 September 2014 and was published on 19 October 2014.

Recommendation 1

The Minister for Local Government consider including within the *Local Government Act 1989*, a definition of ‘complaint’ as follows:

A complaint is an expression of dissatisfaction with:

- **the quality of an action taken, decision made, or service provided by a council or its contractor**
- **a delay or failure in providing a service, taking an action, or making a decision by a council or its contractor.**

Response from the Department of Environment, Land, Water and Planning:

No objection in principle regarding the implementation of this recommendation.

Customer service charters

33. It is clear that councils invest time and energy to deliver a high standard of customer service to their communities.
34. Sixty-four councils have a customer service charter, setting out what the community can expect when they contact the council. It is pleasing to see so many councils (81 per cent) publishing their standards for engaging with the community. Such positive commitments are a useful starting point for councils when reviewing and refining their complaint handling systems. For example, one rural council's Customer Service Commitment states:

We value your comments and take your complaints seriously. Whether you wish to compliment us on the quality of our service or make a complaint, your feedback is important to us. Not only does it give us an opportunity to recognise and reward excellent performance by our staff, it also enables us to learn about how we can improve our service to the community.

Perception of complaints

35. Developing a positive organisational culture around complaints sets a foundation for an effective complaint handling system. While most councils are outwardly responsive to complaints and have accessible complaint handling systems, this enquiry identified that there is still some way to go before councils establish a genuinely positive and receptive culture to complaints.
36. Comments from council officers indicate that the perception of complaints as being ‘bad’ still exists within the sector, even in some councils which have relatively sophisticated complaint handling systems. This was particularly evident during discussions about the definition of a ‘complaint’ and on reporting of complaints.
37. Council staff indicated:
 - they are inclined to minimise any public mention of complaints
 - generally, the community would consider a high number of complaints as an indicator of poor council performance
 - some reluctance to adopt a broad definition of ‘complaint’, which appears to be related to a desire by councils to keep reportable numbers of complaints low.
38. There are numerous reasons why people complain and more often than not, complaints are not substantiated. Giving a complainant an opportunity to be heard and providing a detailed explanation of an agency's decision is sufficient to resolve many complaints. While a large number of substantiated complaints are likely to demonstrate systemic deficiencies in service delivery, unsubstantiated complaints, do not.

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39. However, information about both substantiated and unsubstantiated complaints can be very useful to councils. Beyond rectifying problems with service delivery, they show areas of concern to the community and areas where the public may benefit from more education, consultation or assistance.
40. For example, complaints about infringements and rates, which involve a financial cost to complainants, comprise a large volume of complaints to this office. Some of these complaints are substantiated, but many are not. Often these complaints are driven by the desire to avoid a financial penalty or a sense of 'unfair' financial burden being placed on an individual, rather than the identification of a specific administrative error on the part of the council. However, themes and patterns in these complaints may reveal areas with respect to rates and infringements, about which the community has limited understanding.

Case study 2: Confusion about rates

A person complained to this office about their rates notice. They stated that 'property prices have gone down over the past five years and this means that rates, which are calculated on the value of the property, should have gone down also - not up'.

The complainant did not understand how rates are calculated, and that their rates amount is calculated on the average change in value for properties across the municipality; and not in relation to the value of their own property. If a council received multiple complaints of this nature, it may indicate the community would benefit from the council reviewing how it communicates information on the calculation of rates.

Source: Victorian Ombudsman.

41. Informing the community about how complaints have led to positive changes can address negative perceptions about the number of complaints a council receives. Councils that are open to receiving complaints and are committed to responding effectively to them are likely to improve their future service delivery.

Complaint handling policies and procedures

42. Having clear and robust policies and procedures for handling complaints, which include an internal review procedure, is critical to ensuring a consistent approach to complaints across a council. These policies and procedures also enable transparency: both the community and council staff will know how complaints will be handled.
43. Some councils responded to the enquiry by advising that they were reviewing their approach to complaint handling, including adopting a complaint handling policy or other policies.
44. Legislative provisions requiring councils to have complaint handling policies in place, such as those which exist in South Australia⁷ and Queensland⁸, would ensure greater transparency and accountability by councils in the handling of complaints. Feedback obtained by this enquiry indicates that legislation such as this has reduced the number of complaints requiring resolution by the Ombudsman's office in South Australia.

Internal review

45. A mechanism for internally reviewing complaint handling decisions not only increases fairness to the complainant, but also improves internal accountability and facilitates continuous improvement of the complaint handling system. It is essential to objectivity, accountability and transparency that internal reviews are conducted by officers who have no previous involvement with the issue.

⁷ Sec 270, *Local Government Act 1999* (SA).

⁸ Sec 269, *Local Government Act 2009* (Qld).

46. The enquiry identified inconsistency across local councils around internal reviews. For example, some councils allow multiple reviews, while other councils only allowed a single review. More concerning however, is that:

- some councils allow officers who were involved in the original complaint or matter to conduct the internal review
- 29 councils, or more than a third, appear to not have any internal review policy.

Case study 3: Internal review

A resident was issued with an infringement notice when a council ranger allegedly found her two dogs roaming outside her property. The complainant wrote to the council seeking a review of the decision to issue the infringement. The council manager who signed the cover letter to the complainant accompanying the infringement notice was also involved in the internal review of the issue of the infringement. It therefore appeared from the documentation that the officer issuing the infringement had also been responsible for the council's internal review.

In response to enquiries by the Victorian Ombudsman, the council advised that the manager who conducted the internal review had not been involved in issuing the infringement, but had only signed the cover letter. The council acknowledged the confusion caused by the manager's signature of the cover letter. The council changed its procedure to ensure that those officers who issue infringement notices and those who conducted internal reviews would be responsible for signing the relevant individual cover letters in the future.

This example demonstrates the importance of both impartiality and *the appearance of impartiality* to the credibility and effectiveness of an internal review process.

Source: Victorian Ombudsman.

Recommendation 2

The Minister for Local Government consider including within the *Local Government Act 1989*, a requirement that councils have a complaint handling policy and procedures, and an internal review function for reviewing council complaint handling decisions.

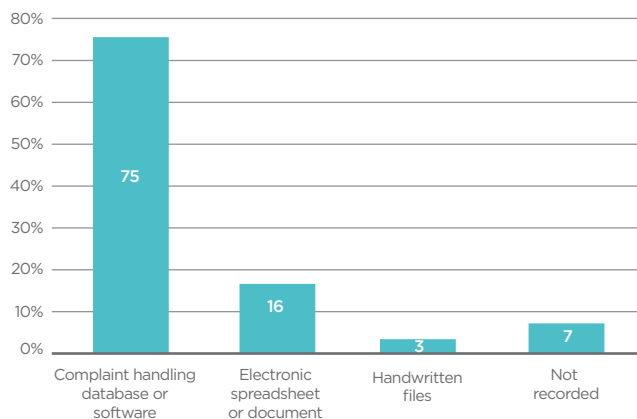
Response from the Department of Environment, Land, Water and Planning:

No objection in principle regarding the implementation of this recommendation.

Recording basic complaint data effectively

47. An area that requires significant improvement is recording and analysis of complaints. Forty-one councils do not record the number of complaints they receive. The reasons for this included:
- council does not discern between a complaint and a request for service
– *a rural council*
 - low volume of complaints received
– *a rural council*
 - complaints data is collected in a number of different databases [and] meaningful complaint categories do not exist in the system
– *a metropolitan council.*
48. The methods councils use to record complaints are shown in Figure 3.

Figure 3: Methods councils use to record complaints (%)⁹



Source: Victorian Ombudsman Survey: Complaint handling in local government.

49. Thirty-eight councils reported that they used multiple systems within their council to record complaints.

We do not [have] a system currently that records complaints – *a regional council*

Complaints are recorded through several of Council's [business] units... – *a metropolitan council*

Many complaints are redirected to external contractors – *a metropolitan council*

Many staff do not know how to use the [recording] system, and [because] there are no formal guidelines on how Council would like complaints captured, monitored and processed – *a metropolitan council*.

50. The recording of complaints is an area where councils acknowledge, improvement is required. In order to efficiently and effectively track and analyse complaints, I consider that they should be recorded in a centralised database/recording system.

51. Data and trend analysis to inform service improvements will be more efficient if councils have a common system, across all business units, for categorising and recording complaints.

Improving complaint reporting and analysis

52. Forty-four councils said they analyse complaints to identify issues, trends and make improvements. Councils advised this office:

We use the data from our CARS system, [complaints and requests], to both inform decision making as well as identify ways we can develop a pro-active (rather than a re-active, bandaid fix) approach to customer service – *a rural council*.

... across Council, various business units will consider 'hot topics' or 'common complaints' where appropriate and consider whether there are opportunities to change processes, improve communications, or take other actions to address the underlying issue. This might manifest itself in new or improved Standard Operating Procedures for staff in Council's Call Centre, or changes to template letters in Local Laws, improvements to forms or the deployment of one of Council's Business Analysts to conduct a review of a particular process or activity within a department – *a metropolitan council*.

... Complaints about waste drove the recent selection of collection routes through rollout of new garbage and recycling plan – *a rural council*.

53. Thirty-four councils said they do not analyse complaints, for reasons including:

... Lack of resources limits Council's ability to regularly analyse complaints to any great detail – *a rural council*

Because of the lack of centralised reporting it is very difficult to identify trends unless the investigator recalls similar complaints made previously – *a metropolitan council*.

54. The proportion of councils that analyse complaints is lower among regional and rural councils. The most common reason was the lack of formal reporting systems to facilitate this.

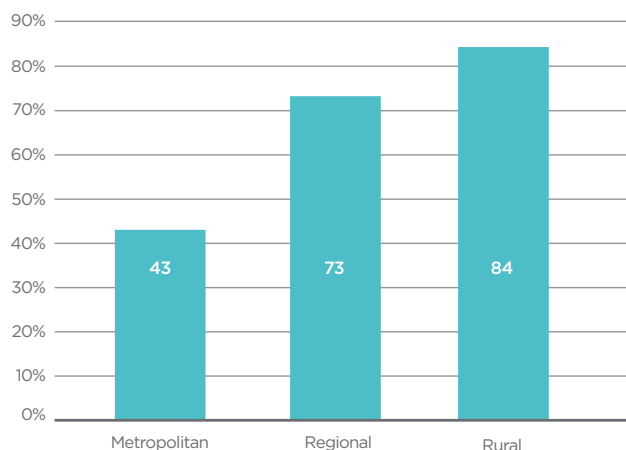
⁹ Percentages add up to 101 due to rounding.

55. Twenty-two councils rated their performance as 'poor' in identifying recurring and systemic issues from complaints and making recommendations for improvement; 34 councils rated themselves as 'satisfactory' in this respect, 19 as 'good' and four as 'excellent'.
56. The Local Government Act sets out the Best Value Principles all councils must adhere to. One principle is that 'Council must achieve continuous improvement in the provision of services for its community'¹⁰. Analysing complaints can assist with this.
57. Even if a council receives a low number of complaints, systemically reviewing and analysing complaints will ensure that no trend or systemic issue is missed.
58. Councils' senior management should regularly receive an analysis of complaint issues and trends, and act on recommendations to improve services.

Key performance indicators

59. In addition to analysing complaint handling data to identify systemic service delivery issues and areas for improvement, well-recorded complaint data can be used to monitor the performance of officers in handling complaints. It is therefore beneficial for councils to adopt key performance indicators in relation to complaint handling.
60. Fifty-two councils, or about two thirds, do not have key performance indicators (KPIs) for their complaint handling function. Figure 4 shows that over 80 per cent of rural councils do not have complaint handling KPIs.

Figure 4: Councils that do not have key performance indicators or other performance measures related to complaint handling (% / councils by location)



Source: Victorian Ombudsman Survey: Complaint handling in local government.

61. Several councils said they would like guidance on developing complaint handling KPIs.
62. Common KPIs in place for complaint handling included:
- timeframes for responding to complaints
 - reducing the number of complaints.

One council stated:

The Customer Focus Strategy has a KPI to decrease the number of complaints by 5%, 10% and 15% over 3 years – a metropolitan council.

63. While it is encouraging that this council has recognised the importance of complaints and developed a KPI aimed at reducing complaints, having such a KPI may undermine the development of a receptive culture to complaints. It is advisable for KPIs relating to complaints to focus on how well complaints received are handled, rather than on how many complaints are received.

¹⁰ Sec 208B(d), Local Government Act 1989 (Vic).

64. If a KPI focussing on complaint numbers is considered appropriate, a KPI aimed at reducing the number of complaints substantiated (that is reducing the incidence of service delivery issues/errors) is more useful than a KPI aimed at reducing the number of complaints received. The *Good Practice Guide* provides further advice on complaint handling KPIs.

65. Only 15 councils make their complaint data public. Those councils release data in the following ways:

Quarterly Performance Reports to Council
– a metropolitan council

A monthly report is available for public viewing upon request – a regional council

Under provisions of the Freedom of Information Act – a rural council.

66. Thirty-one councils rated themselves as performing poorly in reporting complaints and outcomes against documented standards. Twenty-nine councils rated their performance as 'satisfactory', 13 as 'good' and six as 'excellent'.

67. By having complaint handling KPIs, councils can measure their effectiveness in handling complaints. Reporting publicly on complaint handling KPIs makes councils accountable to the community for their complaint handling performance.

Handling complaints made directly to councillors

68. Councillors often receive complaints from members of the public. This is a part of their municipal role. Consultations with councils highlighted that this is an area where councils would benefit from guidance.

69. Forty-five councils have a policy for managing complaints made directly to councillors¹¹. Councils rated their policies as 'good' (28 councils), 'satisfactory' (11 councils) or 'excellent' (six councils). No council rated their policy as 'poor'.

70. Common processes for complaints received by councillors include:

- councillor refers complaint to council administration for action
- council administration reports complaint progress to councillor
- council administration communicates with the complainant.

71. Thirty-five councils do not have a policy for complaints made to councillors. In the absence of a documented policy or process, councils cannot be assured that such complaints are being handled consistently, objectively and transparently.

72. One rural council highlighted the following difficulties when councillors receive complaints:

Not all elected representatives are as diligent as others about reporting matters promptly.

Also, once they have reported an issue, it is sometimes difficult for them to retain an 'arm's length' approach.

73. One metropolitan council described the differing processes it uses to handle complaints received by councillors and complaints received by council staff:

Requests or complaints to councillors have a tighter seven day turnaround and are to be dealt with by the appropriate manager. Response times are monitored by EMT [management team] and requests/complaints cannot be closed until the Councillor is satisfied it has been properly dealt with ... Councillor complaints often get preferential outcomes which other residents do not receive when dealt with by staff within established guidelines and often stretch our resources.

74. In principle, all complainants to the council about council administration should be handled and responded to consistently, regardless of who received the complaint, whether a councillor or a council staff member. It is best for councillors to leave operational issues to the council to manage. This helps to maintain the distinction between the political and operational functions of councils.

¹¹ Four councils appear to have misread the question as complaints made about councillors or the mayor.

75. Failure by councils to establish clear policies and procedures for handling complaints made to councillors can result in complainants being treated unfairly, expose the council to criticism and create tension between councillors and council staff.

Anonymous complaints

76. Seventy-three councils allow members of the public to lodge complaints anonymously. The survey responses indicated that most councils handle anonymous complaints similarly to the way they handle other types of complaints.

77. However, some stakeholders raised concerns about the potential for anonymous complaints to be vexatious or misconceived and suggested that councils should only consider these complaints when health or safety issues had been raised.

78. There are many reasons why a person may choose to complain anonymously. While I have considered the concerns raised by the stakeholders, I remain of the view that councils should accept and investigate anonymous complaints, where they have sufficient information do so. It appears that the majority of councils are responding to anonymous complaints in this way.

Managing unreasonable complainant conduct

79. Forty-four councils find 'unreasonable complainant conduct'¹² or contact management¹³ one of the most challenging aspects of complaint handling. During consultations, council staff said it was hard to know when to 'draw the line' and start contact managing a complainant who was behaving unreasonably.

80. Forty-three councils train their staff in managing unreasonable complainant conduct. Thirty-five councils have a policy or other written advice on managing unreasonable complainant conduct or contact managing complainants.

81. Of the councils who have a policy or other written advice:

- five rated it as 'excellent'
- 21 rated it as 'good'
- eight rated it as 'satisfactory'
- one rated it as 'poor'.

82. Unreasonable complainant conduct is a challenging and stressful area for complaint handling staff. Having appropriate policies, training and culture around how unreasonable behaviour from complainants will be handled is an important way councils can support their staff in managing these challenges.

83. The model policy template included in the *Good Practice Guide* includes guidance on unreasonable complainant conduct. The guide also provides advice and links for managing unreasonable complainant conduct and contact management. I acknowledge that this is a significant area of concern for councils. In recent years this and other Australian Ombudsman offices have developed detailed resources aimed at assisting bodies better manage unreasonable complainant conduct. These resources are listed in the bibliography to the *Good Practice Guide*.

¹² 'UCC' or 'unreasonable complainant conduct' is any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource, or equity issues for the parties to a complaint. This may include the organisation or case officer responsible for handling a complaint; the subject of the complaint; the complainant, their family, or friends; or other complainants or service users.

¹³ 'Contact management' involves modifying or limiting the ways in which a complainant is allowed to contact a body, to minimise the impacts and risks posed by their behaviour.

Different approaches to complaints about third party contractors

84. Some of the most basic yet significant council services are provided by third party contractors on behalf of councils. These include:
- waste management: 55 councils
 - road and footpath maintenance and construction: 30 councils
 - tree services, parks and gardens and open spaces maintenance: 23 councils
 - infrastructure and capital works: 15 councils
 - aquatic and leisure services: 13 councils.
85. The most common complaints received by councils – about roads or traffic, rubbish collection and trees– relate to services which are often delivered by contractors. This highlights the importance of councils having effective complaint handling procedures for services provided by third party contractors.
86. Thirty-six councils allow third party contractors to respond directly to complaints made about the services they provide. In some instances, when deciding whether to allow the contractor to respond, councils considered:
- the type of complaint:
... our contractor for recycling bins would respond about a missed bin, but not about the conduct of their staff
– *a metropolitan council*
 - the contractor being complained about:
Council's Leisure and Aquatic Facilities are managed under contract by [contractor] which has a mature business model. The [contractor] would handle the majority of complaints received about the service they provide on behalf of Council
– *a metropolitan council.*
87. Two councils, which do not allow contractors to respond to complaints, set out their processes as follows:
- The complaint is made to Council's customer service centre, referred to the Council Officer and then investigated by the Officer and Contractor. If required, a response is provided by Council. Complaints received directly to the contractor are required to be forwarded to council for review and response
– *a regional council*
- When a complaint is received regarding a third party contractor it is followed up by officers and a response is conveyed to the complainant from Council – *a regional council.*
88. Fifty-five councils said that when they recorded complaints, they did not specifically identify complaints made about third party contractors, for reasons including:
- Complaint records are based on the issue the customer has with a service or product [and] not by who delivered them
– *a metropolitan council*
- The current [IT] system configuration does not support this differentiation
– *a metropolitan council*
- [third party contractor complaints are] ... not recorded in a central place and reporting varies across the business units. The complaints are not consistently differentiated as being against a third party – *a metropolitan council*
- All complaints [are] handled either by the contractor or Council, once resolved, the information may not always be retained or logged onto a formal register
– *a metropolitan council.*

89. Of those councils who record complaints made about third party contractors, the number of complaints received ranged from 0 to 2,531 for 2013-14. One metropolitan council reported that they received only two complaints about a third party contractor; another reported that they received over 2,500. This disparity may be explained by councils' different record keeping practices or differing definitions of 'complaint' and may not accurately reflect the number of complaints actually received.

90. Councils retain a level of accountability for their services, irrespective of who delivers those services on the council's behalf. The *Good Practice Guide* provides guidance on overseeing contractors' complaint handling practices. If a council allows a contractor to respond to complaints on its behalf, it needs to be satisfied that the contractor's complaint handling process is adequate. For example, one council described its oversight of contractor complaint handling as follows:

All third party contractors have various key performance complaint indicators built into contract specifications and contractor performance is monitored by Council Contract management staff
- a metropolitan council.

91. If councils permit their contractors to handle complaints directly, there needs to be a mechanism for complainants to escalate their complaints to the council if they remain dissatisfied with the contractor's handling of their complaint.

Managing complainants' expectations

92. Sixty-eight councils regarded managing complainants' expectations as the most challenging aspect of complaint handling. 'The public's lack of understanding of the issue being complained about' was the next most common response, given by 54 councils. Clearly, these two aspects are interrelated - a lack of understanding can drive unrealistic expectations.

We are finding more and more customers want a near instantaneous answer on often what can be quite complex matters, and are unwilling to acknowledge that we may need to undertake various processes/ investigations before we can respond
- a metropolitan council.

93. The *Good Practice Guide* provides tips on managing expectations when dealing with complainants. An effective strategy to assist with managing community expectations is to provide complaint information on council websites and ensuring the information is easy to locate. Twenty-nine councils do not have information about making a complaint on the home page of their website. Nineteen councils said that their policies and/or procedures were not available to the public via their website or upon request.

94. Some common types of complaints are bound by legislation, such as infringements, planning and rates. In these cases, councils may have limited discretion as to how they respond to a complaint. To manage community expectations, councils should publicise what they can and cannot do about these complaints and any other information that will assist complainants to understand the process.

95. For some areas of complaints, standard fact sheets or advice for all councils would be informative for the community and of assistance to councils in managing expectations. Local Government Victoria may be best placed to prepare, or coordinate the preparation of this advice.

96. In all cases, when preparing information for the community, councils need to consider what people need to know and where they can access further information to resolve their issues.

Recommendation 3

That Local Government Victoria develop, or coordinate the development of, standard fact sheets or advice for local councils relating to issues bound by legislation – such as rates, infringements and planning.

Response from the Department of Environment, Land, Water and Planning:

Local Government Victoria will undertake the development of the fact sheets.

Complainants' right to complain to the Victorian Ombudsman

97. Most councils – 65 in total – advise complainants of this office's role as an independent agency of review. Of these councils:
- 43 provide verbal advice
 - 33 provide advice in their final outcome letters
 - 25 provide advice on their website
 - 19 provide a direct link on their website.
98. All councils should inform complainants of this office's role and the role of other external avenues of review available to them at the conclusion of their complaint.
99. This information should be readily available on councils' websites, as well as in general correspondence to members of the public on matters that may give rise to a complaint. For example, councils should include information about any other avenues through which the complainant can continue to pursue their complaint in all outcome letters following council's internal review.

Figure 5: Example of advice on the role of the Victorian Ombudsman on a council website

What if the matter still cannot be resolved and I wish to escalate it?
If you're not satisfied with the response you may refer the matter to the Manager or the General Manager of the relevant division. Additionally you may refer the matter to the Chief Executive Officer.

What further actions are available to me?

If you are not satisfied with the outcome of your concerns, you have the right to take your complaint to an external agency such as Ombudsman Victoria, by phoning 9613 6222 or toll free on 1800 806 314.

E-mail: ombudvic@ombudsman.vic.gov.au

Web site: www.ombudsman.vic.gov.au

Source: Victorian Ombudsman Survey: Complaint handling in local government.

Appendices

Appendix 1 – Stakeholders consulted

As part of the enquiry, we met with a range of individuals and organisations. These consultations allowed my staff to gain a comprehensive understanding of the issues for local councils in complaint handling and opportunities for improvement.

The individuals and organisations consulted were:

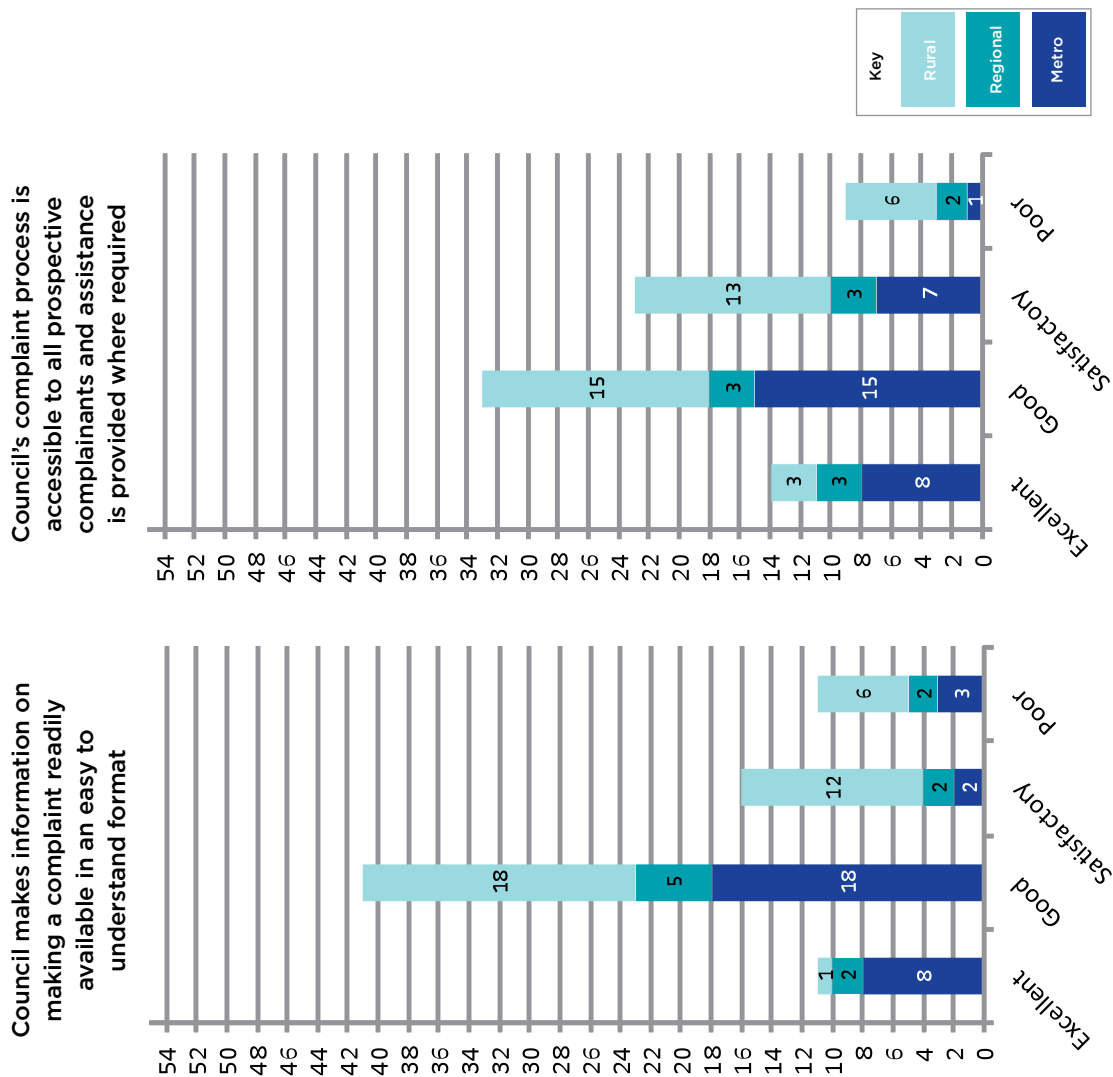
- three community organisations:
 - one community legal organisation
 - one multicultural organisation
 - one ratepayers' association
- three local government peak bodies
- one government department
- one local government regulator
- one dispute resolution body
- four council chief executive officers
- two councillors
- two mayors
- eight councils:
 - five metropolitan councils
 - two regional councils
 - one rural council
- one legal organisation
- two interested individuals:
 - one local government consultant
 - one former council administrator
- staff in the local government areas of the NSW and WA Ombudsman offices.

Appendix 2 - Self-audit results

As part of the survey into complaint handling in local government, councils were asked to rate their compliance with 10 statements, which were modelled on the *Australian Standard: Customer satisfaction - Guidelines for complaints handling in organisations (ISO 10002:2006)*¹⁴.

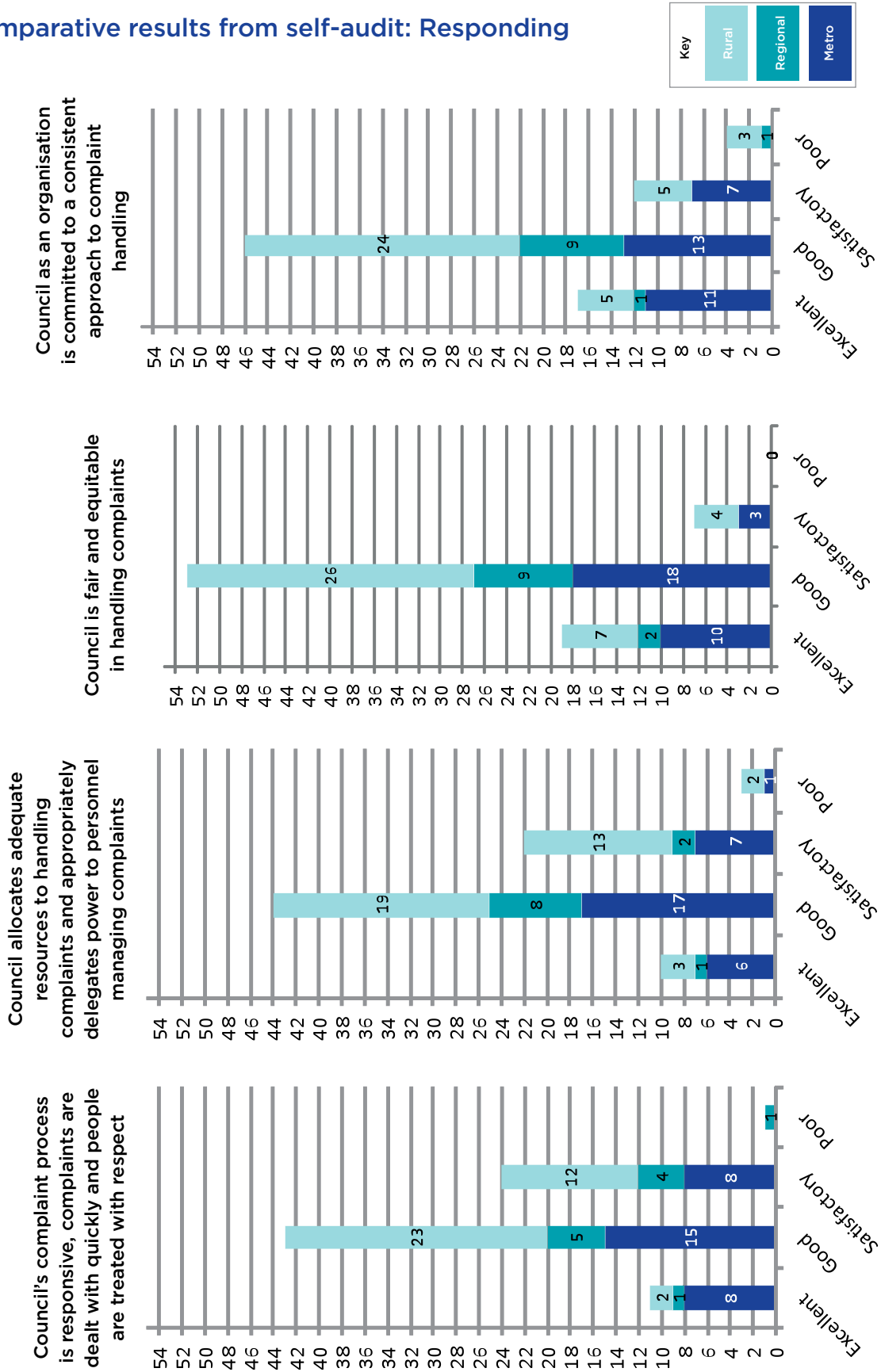
The summary results are shown below. The number of councils responding to each statement is shown, grouped according to metropolitan, regional and rural council locations.

Comparative results from self-audit: Enabling

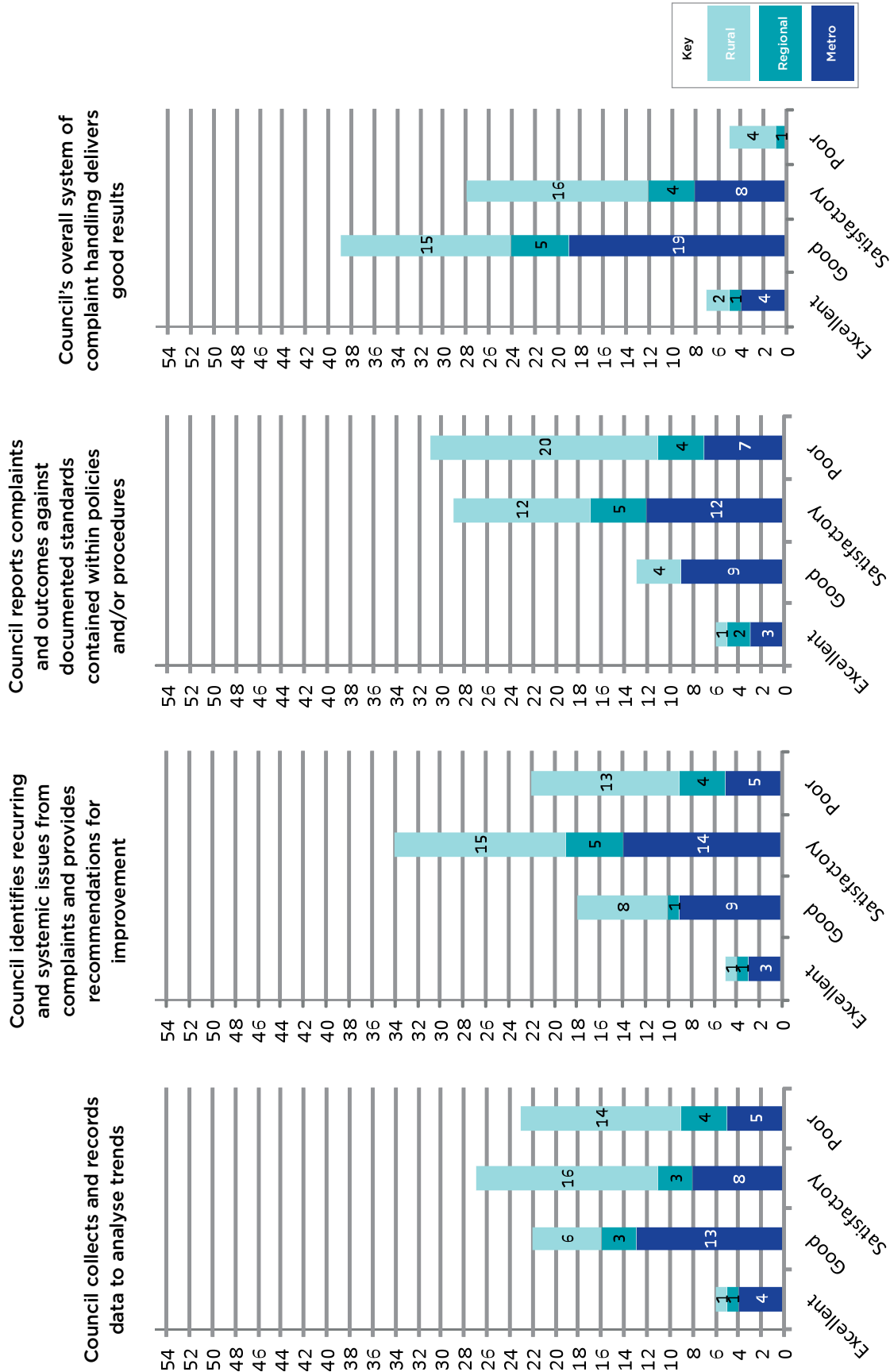


¹⁴ ISO 10002:2006 has now been replaced by AS/NZS 10002:2014, which was approved on behalf of the Council of Standards Australia on 4 September 2014 and published on 19 October 2014.

Comparative results from self-audit: Responding



Comparative results from self-audit: Learning and improving



Appendix 3 – Metropolitan, regional and rural councils

Metropolitan councils (31)	Rural councils (37)
Banyule City Council	Alpine Shire Council
Bayside City Council	Ararat Rural City Council
City of Boroondara	Bass Coast Shire Council
Brimbank City Council	Baw Baw Shire Council
Cardinia Shire Council	Benalla Rural City Council
Casey City Council	Buloke Shire Council
City of Darebin	Shire of Campaspe
Frankston City Council	Central Goldfields Shire Council
Glen Eira City Council	Colac Otway Shire
City of Greater Dandenong	Corangamite Shire Council
Hobsons Bay City Council	East Gippsland Shire
Hume City Council	Gannawarra Shire Council
Kingston City Council	Glenelg Shire Council
Knox City Council	Golden Plains Shire Council
Manningham City Council	Hepburn Shire Council
Maribyrnong City Council	Hindmarsh Shire Council
Maroondah City Council	Indigo Shire Council
City of Melbourne	Loddon Shire Council
Melton City Council	Macedon Ranges Shire Council
Monash City Council	Mansfield Shire Council
Moonee Valley City Council	Mitchell Shire Council
Moreland City Council	Moira Shire Council
Mornington Peninsula Shire Council	Moorabool Shire Council
Nillumbik Shire Council	Mount Alexander Shire Council
City of Port Phillip	Moyne Shire Council
City of Stonnington	Murrindindi Shire Council
Whitehorse City Council	Northern Grampians Shire Council
Whittlesea City Council	Pyrenees Shire Council
Wyndham City Council	Borough of Queenscliffe
Yarra City Council	South Gippsland Shire Council
Yarra Ranges Council	Southern Grampians Shire Council
	Strathbogie Shire Council
	Surf Coast Shire Council
	Towong Shire Council
	Wellington Shire Council
	West Wimmera Shire
	Yarriambiack Shire Council

Regional councils (11)
Ballarat City Council
Greater Bendigo City Council
City of Greater Geelong
Greater Shepparton City Council
Horsham Rural City Council
Latrobe City Council
Mildura Rural City Council
Swan Hill Rural City Council
Wangaratta Rural City Council
Warrnambool City Council
Wodonga City Council

Appendix 4 – Councils and complaints – A good practice guide

The Victorian Ombudsman has published *Councils and complaints – A good practice guide* as a separate volume.

To download an electronic copy, visit the website at <www.ombudsman.vic.gov.au>

To request a hard copy, please contact the Victorian Ombudsman.

Email ombudvic@ombudsman.vic.gov.au

Phone 03 9613 6222

Regional freecall 1800 806 314