Muizenberg Improvement District Complaints Procedure

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1 Purpose

The Muizenberg Improvement District (MID) is committed to providing professional, accountable and responsive services within its mandate.

MID is a separate juristic person incorporated as a Non-Profit Company (NPC) and governed by its Board of Directors. Its complaints process operates within the MID Memorandum of Incorporation (MOI), the Companies Act, 2008, the City Improvement District (CID) By-law and CID Policy, the approved Business Plan and the Service Level Agreement.

This procedure provides a fair, transparent and consistent process for receiving, recording, investigating, responding to and resolving complaints relating to MID personnel, service providers, management or services delivered by or on behalf of the MID.

The purpose of the procedure is not only to resolve individual complaints, but also to identify recurring service delivery concerns and opportunities for improvement.

2 Scope

This procedure applies to complaints concerning:

- MID employees and personnel;
- MID management;
- MID Directors, the Chairperson and the Board, including governance, membership, meetings and election matters;
- contractors and service providers appointed by the MID;
- conduct or alleged misconduct while performing duties on behalf of the MID;
- negligence or alleged negligence;
- poor communication;
- failure or unreasonable delay in responding to a matter;
- the standard or quality of services provided by the MID; and
- any other matter reasonably relating to the performance of the MID within its mandate.

This procedure does not replace the City of Cape Town's own complaints or service-request processes for matters that fall directly within the City's statutory responsibilities.

Where a complaint concerns a matter outside the MID's mandate, the complainant will, where reasonably possible, be directed to the appropriate authority or service provider.

3 Principles

All complaints will be dealt with fairly, objectively and professionally.

A complainant will be treated with courtesy, dignity and respect and will be given reasonable information regarding the manner in which the complaint will be processed.

Information relating to a complaint will be handled with appropriate confidentiality and in accordance with applicable legislation and MID policies.

No complainant should be subjected to intimidation, victimisation or unfair treatment merely because they have submitted a complaint.

Similarly, an employee, contractor or service provider who is the subject of a complaint will be treated fairly and will be given a reasonable opportunity to provide their version of events before findings are made.

The submission of a complaint does not, in itself, establish wrongdoing.

Nothing in this procedure limits any rights available in terms of the MID MOI, the Companies Act, 2008, the CID By-law or any other applicable legislation.

4 Submitting A Complaint

Complaints should preferably be submitted in writing by email to the MID so that an accurate record of the complaint, correspondence and response can be maintained.

The complaint should, where possible, include:

- the complainant's name and contact details;
- the date, time and location of the incident;
- a clear description of the complaint;
- the name or description of any MID employee, contractor or service provider involved, if known;
- details of any previous report or reference number;
- photographs, documents, video footage or other relevant supporting information, where available; and
- the outcome or assistance the complainant is seeking.

Where a complaint is initially received verbally, MID may request that the complaint be confirmed in writing where this is reasonably necessary to properly investigate the matter.

5 Acknowledgement And Registration

All formal complaints must be recorded in the MID Complaints Register.

Receipt of a complaint should normally be acknowledged within five (5) working days.

The acknowledgement should, where applicable:

- confirm receipt of the complaint;
- provide a complaint or reference number;
- identify the person responsible for dealing with the complaint;
- explain the process that will follow; and
- provide an indication of the expected response time.

6 Assessment And Investigation

The General Manager, or a designated person, will assess operational complaints and determine the appropriate investigation. Complaints involving the General Manager, Chairperson, Directors or Board governance must be allocated through section 9 to a person or structure that is not implicated in the complaint.

This may include:

- obtaining further information from the complainant;
- obtaining reports or statements from MID personnel;
- requesting information from a contractor or service provider;
- reviewing operational records, incident reports or other relevant records;
- reviewing available CCTV footage where lawful, relevant and available;
- consulting relevant external stakeholders; and
- referring the matter to another authority where it falls outside the MID's mandate.

Any MID employee, contractor or service provider against whom a complaint is made must be given a reasonable opportunity to provide relevant facts and information concerning the complaint.

Anyone implicated in a complaint or with a material conflict of interest must disclose that conflict and not investigate, deliberate on or determine the complaint. The disclosure and arrangements for independent handling must be recorded.

7 Response Timeframes

MID will endeavour to deal with complaints as efficiently as reasonably possible. A working day excludes Saturdays, Sundays and South African public holidays. The following targets run from receipt of the complaint.

Acknowledgement and allocation should normally occur within five (5) working days. The complaint must be assigned to the appropriate person or structure, subject to the independence safeguards in section 9.

Straightforward complaints should, where reasonably possible, be resolved within ten (10) working days.

Complex complaints, including those requiring external consultation, should, where reasonably possible, be finalised within thirty (30) working days. These targets also apply to internal escalations, calculated from receipt of the escalation.

If a target cannot be met, the responsible person must provide a progress update before the target expires, explaining the delay and giving an estimated date for further feedback. Further updates must be provided at least every ten (10) working days while the matter remains open, even if external feedback is still outstanding.

The responsible person must record reasons for delay and continue reasonable follow-up with external stakeholders. Awaiting external input does not remove MID's responsibility to keep the complainant informed.

8 Outcome And Response

Once the complaint has been considered, the complainant will receive an appropriate response.

The response should, where applicable:

- address the material issues raised;
- explain the outcome of the complaint;
- identify action already taken or proposed;
- explain where the matter falls outside the MID's authority or mandate; and
- advise the complainant of the escalation process should they remain dissatisfied.

Where appropriate, corrective or preventative action may be implemented without disclosing confidential employment, disciplinary, contractual or personal information.

If the complainant accepts the response, or no further reasonable action is required, the complaint may be recorded as closed.

9 Escalation Procedure

MID encourages resolution at the lowest appropriate level. Operational complaints and governance complaints must be handled through the appropriate route below.

9 1 Operational complaints and internal escalation

Complaints concerning MID employees, contractors, service providers or service delivery should initially be submitted to the General Manager or designated responsible official. A dissatisfied complainant may request Board consideration in writing, identifying the disputed findings, reasons and any new information.

The General Manager must acknowledge and refer the escalation to the Chairperson, an unimplicated Director or an appropriate Board structure. The reviewer must consider the complaint, investigation record and complainant's representations and provide a written outcome. A person whose conduct or decision is under review must not determine the escalation.

9 2 Complaints against the General Manager
A complaint concerning the General Manager must be submitted directly to the Chairperson or an unimplicated designated Director. The General Manager must not investigate or determine the complaint against them. The Chairperson or designated Director must arrange impartial consideration and a written outcome, with any further internal review conducted by unimplicated Directors.

9 3 Complaints against the Chairperson or Directors
A complaint concerning the Chairperson or a Director must be submitted to an unimplicated Director. Where received by management, it must be forwarded promptly to an unimplicated Director.

The Board, acting through unimplicated Directors in accordance with the MOI and applicable decision-making requirements, shall appoint an independent subcommittee consisting of Directors not implicated in the complaint and, where appropriate and permitted by the MOI and applicable law, portfolio committee members or ordinary members.

The subcommittee must consider all submissions, provide affected parties a reasonable opportunity to respond, and deliberate in accordance with the CID By-law, CID Policy, MOI, approved Business Plan, Service Level Agreement and applicable legislation. Its mandate and authority must be recorded; any decision reserved for the Board or members must be referred to the competent unimplicated structure. A written outcome must be provided and recorded in the Complaints Register.

9 4 Complaints involving the Board as a whole
Where the complaint implicates the whole Board or too few unimplicated Directors remain to act lawfully, the complaint must not be determined by the implicated Directors. Independent review and any decision must be arranged through a competent mechanism permitted by the MOI and applicable legislation, with external independent assistance where appropriate. The complainant must be told the route, responsible person and expected timeframe. Regulatory issues may be submitted to the City's CID Branch within its mandate.

9 5 Member governance complaints
Complaints submitted by members concerning governance, meetings, AGMs, voting rights, access to information, elections, membership rights or matters arising from the MOI may be dealt with through the applicable governance provisions of the MOI and Companies Act where appropriate. MID must explain the applicable route and record the referral and outcome. This procedure does not replace those governance provisions or statutory remedies.

The complaints process may not be used to challenge decisions validly taken by the Board, members in general meeting or management exercising delegated authority unless the complaint alleges non-compliance with the CID By-law, CID Policy, MOI, applicable legislation, approved Business Plan, Service Level Agreement or principles of procedural fairness. An allegation of such non-compliance must be assessed on its merits; the decision under complaint must not simply be presumed valid. Reasons for declining a complaint must be given in writing, together with the applicable review or governance route.

9 6 Referral to the City of Cape Town CID Branch
The City is not a general appeal body for every MID complaint. Its role concerns regulatory oversight within its mandate rather than routine reconsideration of MID operational, personnel, contractual or Board decisions.

Where a complaint relates to compliance with the CID By-law, CID Policy, approved Business Plan, Service Level Agreement or governance requirements applicable to the CID, the complainant may submit the matter to the City of Cape Town CID Branch for consideration within the City's regulatory mandate.

Relevant internal MID processes should ordinarily be exhausted first. This does not prevent urgent referral or the exercise of statutory rights. Complaints outside the City's regulatory authority may need to be addressed through MID's internal governance processes, mediation, legal remedies or other appropriate mechanisms.

Where MID makes a referral, it must provide confirmation to the complainant and record the referral. Any City consideration is subject to the City's applicable processes and authority.

9 7 Final determinations sent to the City

Where a complaint concerns the General Manager, Chairperson or Board governance and is formally escalated, a copy of the final determination shall be provided to the City's CID Branch for record purposes. The date and recipient must be recorded in the Complaints Register. Information must be shared securely and with due regard to applicable confidentiality and data-protection requirements. Providing the determination for record purposes does not make the City an appeal body.

10 Urgent Or Serious Matters

Nothing in this procedure prevents MID from immediately escalating a matter where the nature or seriousness of the complaint requires urgent intervention.

Allegations involving possible criminal conduct, corruption, serious misconduct, threats to safety or other matters requiring intervention by a competent authority may be referred directly to the appropriate authority.

MID's internal complaints procedure does not replace the complainant's right to report alleged criminal conduct directly to the South African Police Service or another competent authority.

11 Confidentiality And Information

Information received during the complaints process will be handled responsibly and with due regard to confidentiality, applicable data-protection requirements and the rights of all parties involved.

A complainant is entitled to appropriate feedback regarding their complaint but is not automatically entitled to confidential employment, disciplinary, contractual, personal or operational information relating to another person.

12 Complaints Register

MID management will maintain an appropriate Complaints Register recording, where applicable:

- date received;
- complainant details;
- nature/category of complaint;
- person or service concerned;
- responsible MID official;
- actions taken;
- dates of correspondence;
- escalation, if applicable;
- outcome; and
- date closed.

The register should be reviewed periodically to identify recurring complaints, service-delivery weaknesses and opportunities for corrective or preventative action.

Complaint records and supporting documentation shall be retained for a minimum of five (5) years from closure, or such longer period as may be required by law. Records relevant to pending proceedings or an unresolved dispute must not be destroyed while required for that matter. Access must be restricted to authorised persons and disposal after the retention period must be secure.

13 Management And Board Oversight

The General Manager is responsible for ensuring that complaints are appropriately received, recorded, allocated, investigated and responded to.

Management should periodically report to the Board on complaints received, categories of complaints, outstanding matters, recurring issues and corrective measures implemented.

Individual personal information should not unnecessarily be included in general Board reporting.

The complaints process should also be periodically reviewed to identify root causes and determine whether operational procedures, service standards, communication or contractor performance require improvement.

For complaints involving management or Directors, the designated independent person or structure is responsible for processing and reporting the matter. The Board must monitor outstanding complaints, overdue responses, required City notifications and completion of corrective actions.

14 Abusive, Repetitive Or Vexatious Communication

MID recognises every person's right to raise a legitimate complaint and will consider complaints on their merits.

However, the complaints procedure should not be used to harass employees, repeatedly pursue a matter that has already been reasonably considered and concluded without presenting materially new information, or subject MID personnel to threatening, abusive or discriminatory communication.

Where this occurs, the General Manager, in consultation with the Chairperson where appropriate, may determine a reasonable and proportionate method for managing further communication while ensuring that any genuinely new or substantive complaint is still appropriately considered.

15 Closure Of A Complaint

A complaint may be closed when:

- the matter has been resolved;
- a final response has been provided;
- the complainant has indicated satisfaction with the outcome;
- the matter has been referred to the appropriate external authority;
- no further reasonable action is available to the MID;
- insufficient information is available to investigate the complaint after reasonable attempts to obtain it; or
- the internal escalation procedure has been completed.

The outcome and date of closure must be recorded in the Complaints Register.

Closure must be communicated with reasons and any applicable escalation or governance route. Referral may close MID's investigation only where no further MID action is required; any follow-up responsibility must remain recorded. Materially new information may justify reopening a complaint.

16 Commitment

The Muizenberg Improvement District views an effective complaints process as an important part of accountable service delivery.

Complaints will therefore be used not only to address individual concerns but, where appropriate, to improve communication, operational procedures, contractor performance and the overall standard of services delivered by the MID.

Approval authority: MID Board of Directors

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