

ADMINISTRATIVE ACTION COMPLAINTS PROCESS

1.0 INTRODUCTION

Council is committed to providing a level of customer service that does not attract complaints, but acknowledges the rights of affected persons to provide feedback, both positive and negative, on its services and/or to lodge a complaint about a decision or other action it takes.

2.0 PURPOSE

Council has developed this Administrative Actions Complaints Process in recognition of the need to manage complaints efficiently, effectively, objectively and fairly, as well as to ensure compliance with relevant legislation.

3.0 LEGISLATIVE BASIS

Local Government Act 2009

Local Government Regulation 2012

Information Privacy Act 2009

Ombudsman Act 2001

4.0 APPLICATION/SCOPE

This complaints process has been established for resolving complaints by affected persons (see Section 10.0 Definitions) about the administrative actions of Council.

The legislative definition of an administrative action complaint is as outlined in Section 10.0 Definitions of this document.

The Administrative Actions Complaints Process does **not** apply to:

- (i) competitive neutrality complaints (refer Chapter 3, Part 2 of the Act – OCP151); or
- (ii) complaints about Councillors including the Mayor (refer to Councillor Complaints Process) ; or
- (iii) complaints made under the *Public Interest Disclosure Act 2010*; or
- (iv) complaints about the conduct of staff or contractors; and
- (v) complaints about anti-discrimination, equal employment opportunity policy or industrial matters including the Enterprise Bargaining Agreement (refer to grievance process outlined in section 8 of GRC Certified Agreement).

Complaints about the conduct of staff or contractors are to be referred to the Chief Executive Officer (CEO) and will be dealt with in accordance with Council's Staff Code of Conduct (OCPOL001) and associated procedures, the Act and any other relevant legislation.

Complaints about the conduct or performance of the Mayor or an individual Councillor are to be referred to the CEO and will be dealt with under a separate process in accordance with the provisions of the Act.

A complaint about the conduct or performance of the CEO is to be directed to the Mayor.

Any person may lodge a complaint alleging the corrupt conduct of a Councillor, Council employee or contractor directly to the Crime and Corruption Commission. (www.ccc.qld.gov.au)

A complaint should not be confused with a **service request, notification, enquiry** or a **suggestion**. The process for making this type of contact is outlined in Council's Requests for Service Procedure (OCP150).

5.0 POLICY STATEMENT

Council intends to provide its customers with a level of service that it has determined its ratepayers have the capacity to fund. Council seeks to appropriately manage feedback on its services, both positive and negative, including managing complaints received about decisions or other actions it takes.

Within the bounds of available resources, Council is committed to a continuous improvement approach with ongoing development and monitoring of appropriate systems, practices, procedures, policies and services that seek to improve Council's overall performance and address any shortcomings identified within its customer service and business operations. Feedback received via Council's Administrative Actions Complaints Process forms part of the input into that continuous improvement approach.

For complaints covered by this Administrative Actions Complaints Process, Council will endeavour to ensure that:

- 5.1 anyone who is dissatisfied about a decision or other action of the Council, can easily and simply lodge a complaint;
- 5.2 complainants have access to information on the complaints process and, if necessary, assistance to make their complaint;
- 5.3 complaints are responded to as efficiently and quickly as possible;
- 5.4 there is a fair, objective, consistent and confidential (subject to any legal requirements) treatment of complaints;
- 5.5 a person whose rights, interests or legitimate expectations could be affected by a Council decision or action has the right to a non-biased, impartial hearing;
- 5.6 all relevant, credible and disputed issues are properly examined with Council's decision on a complaint matter being supported by evidence;
- 5.7 complainants, Councillors, Council staff and contractors are treated with respect;
- 5.8 where a complaint is upheld, an appropriate form of redress that is fair to both the complainant and Council is fully considered;
- 5.9 staff are made aware of Council's Administrative Action Complaints Process with complaints handling staff to receive appropriate training in all relevant processes and procedures;
- 5.10 except for complaints made anonymously, Council will inform an affected person in writing of the local government's decision about the complaint and the reasons for the decision; and
- 5.11 complainants will be provided with information on any internal and external review options available.

6.0 COMPLAINTS PROCEDURE

All administrative action complaints received by Council will be assessed and processed in accordance with the following procedure.

6.1 Who can make an administrative action complaint?

Any affected person can make an administrative action complaint. Under the legislation, an affected person is defined as "a person who is apparently directly affected by an administrative action of a local government".

Where there is a need, a complaint can be made by an agent on behalf of an affected person. If a complaint is lodged by a professional advisor eg a solicitor or accountant, the Council will respond directly to that advisor.

Council will take all reasonable steps to confirm that the person claiming to act on behalf of the complainant has the appropriate authority to do so. Unless the complaint is made anonymously, written authorisation to act as the complainant's agent will be required.

6.2 Complaining anonymously

Affected persons are able to make a complaint anonymously either in writing, via email or by telephone.

If a complainant does decide to complain anonymously, the need to provide sufficient information for the matter to be investigated is critical. If made anonymously, it will not be possible for Council to clarify or request further information from the complainant. Further, it will not be possible to advise the complainant of Council's decision and the reasons for that decision in relation to the complaint.

6.3 How to make a complaint

Affected persons can request assistance (including special needs assistance) from a Council officer on how to make a complaint. If you need assistance in making a complaint, phone Customer Contact on 1300 307 800 or visit our [Customer Service Centre](#).

Council will not tolerate abusive or disrespectful behaviour from persons making a complaint.

A complainant may make a complaint in any of the following ways:

- orally, either by telephone or in person,
- by email to Council@gympie.qld.gov.au, or
- in writing.

All written complaints must be addressed to:

The Chief Executive Officer
Gympie Regional Council
PO BOX 155
GYMPIE QLD 4570

A complainant who makes a verbal complaint is strongly encouraged to commit the complaint in writing to ensure that all matters relating to the complaint are clearly documented.

6.4 Taking action on complaints

After receiving a complaint, Council will make a decision on how best to deal with the matter. Where a complaint is referred to an external entity, Council will inform the complainant in writing of this action.

6.4.1 Complainant to provide further information

In some cases, Council will invite an affected person to provide further information, including written statements and evidence to support possible legal action, to assist Council to fully understand the concerns, the issue/s to be investigated (if an investigation is to be undertaken) and the outcome or remedy sought.

6.4.2 Assessing a complaint

Council may refuse to investigate a complaint or, having started to investigate a complaint, refuse to continue the investigation if it reasonably considers that:

- (a) the complaint is trivial; or
- (b) the complaint concerns a frivolous matter or was made vexatiously; or
- (c) the complainant is found not be an affected person in relation to the complaint; or
- (d) both of the following apply:
 - (i) the complainant has a right of appeal, reference or review, or another remedy, that the person has not exhausted; and

- (ii) it would be reasonable in the circumstances to require the complainant to exhaust the right or remedy before the Council investigates, or continues to investigate, the complaint;
- (e) in the circumstances, investigating the complaint is unnecessary or an unjustifiable use of Council resources; or
- (f) the complaint is made anonymously and there is insufficient information provided to investigate the complaint.

Other than for complaints received anonymously, Council will provide the affected person with advice of a decision to refuse to investigate the complaint and the reasons for the decision, including any internal or external review options that are available.

6.4.3 Investigating a complaint

The investigation of a complaint will be undertaken by Council in an impartial, objective, and as far as possible, confidential manner. The investigation of a complaint will typically involve the following stages:

- information gathering, including discussions and interviews with the complainant, Council staff, Councillors, contractors and third parties (where relevant);
- analysis of all relevant information obtained;
- preparation of a report on the results of the investigation (if the complaint was not resolved, or withdrawn by the complainant during the complaints process);
- formulation of findings, report and any recommendations for further discussion with the CEO and/or for Council's formal consideration where necessary; and
- inclusion of statistics for periodic reporting to the Executive Management Team and for statutory reporting within Council's annual report.

At the discretion of the CEO, complaints relating to an area of control of a particular directorate will be referred to the relevant Director to acknowledge receipt of, investigate and decide on the outcome of the complaint matter, including providing appropriate written advice of Council's decision to the complainant.

Where a complaint matter relates to actions or decisions made by an individual Director, the CEO will determine how the complaint matter will be dealt with. Such matters may be investigated on behalf of the CEO by an alternate Director, Manager Governance, Manager POD, or another officer or third party acting under delegated authority of the CEO.

6.4.4 Keeping the complainant informed

All administrative action complaints will be acknowledged in writing except in circumstances where it is considered that a complaint matter may be determined within 10 business days of receipt of the complaint.

Unless the complaint was made anonymously, Council will provide the complainant with access to information on the Administrative Actions Complaints Process and inform the complainant in writing of Council's decision and the reasons for this decision, including any internal and external review options available.

Complaint matters will be dealt with as promptly as possible acknowledging that some matters may involve complex issues, including referral to, and/or investigation by external agencies and third parties where required. As such, Council is not in a position to provide standardised time frames for resolving complaint matters.

In providing written acknowledgement to complaints received, wherever possible, an indication of the expected time frame within which Council may be in a position to respond further to the complaint matter is to be included.

Where extended time frames are likely to occur in finalising a specific complaint matter, Council will inform the complainant in writing accordingly.

6.4.5 Possible remedies and redress

If a complaint is upheld, consideration is to be given to an appropriate form of redress that is fair to both the complainant and Council. Similar remedies should be offered to all persons in a similar situation.

Examples of possible remedies that may apply include:

- admission/acknowledgement of fault
- issue of an apology
- change of decision
- change of policy, procedures or practice
- change of law (eg. a local law)
- refund, remission of penalty, reimbursement or waiver of debt
- correction of misleading or incorrect records
- explanation of how the problem occurred and action to be taken to prevent it recurring
- repair or rework
- technical assistance
- officer training / discipline

6.4.6 Internal Review

Other than where Council's written decision on an administrative action complaint matter has been signed by the CEO, stating that the decision is Council's final position on the matter, a complainant who remains dissatisfied with Council's decision may apply in writing to the CEO seeking an internal review of that decision. An officer equal to, or senior to the original decision maker, who has no prior involvement or conflict of interest in the subject matter, will conduct the internal review and provide written advice to the complainant of the outcome of that review.

6.4.7 External Review

A complainant who remains dissatisfied with Council's decision on an administrative action complaint may seek an external review of that decision from an appropriate oversight agency, including via the Queensland Ombudsman, refer www.ombudsman.qld.gov.au.

7.0 PRIVACY AND CONFIDENTIALITY

Council is committed to the privacy principles of the *Information Privacy Act 2009*. In protecting confidentiality, Council will ensure that the details of the complaint, the investigation and related decisions will be kept confidential.

While every attempt to protect confidentiality will be made, there may be occasions when disclosure of details of a complaint may be legally required.

8.0 RECORD KEEPING AND REPORTING

Council will maintain a confidential file for administrative action complaints.

As required, Council's annual report will include various statistical details regarding administrative action complaints.

Information publicly reported shall include the number of:

- administrative action complaints made to the local government;

- administrative action complaints resolved by the local government under the complaints management process; and
- administrative action complaints not resolved by the local government under the complaints management process.

Periodic internal reporting on a quarterly and annual basis is to be provided to the Executive Management Team in respect to the operation of the Administrative Action Complaints Process. This reporting will enable management to monitor the effectiveness of Council's complaints management system and to further identify, analyse and respond to complaint trends.

9.0 PROCESS REVIEW

This Administrative Action Complaints Process document will be reviewed formally by Council every three years or more often as required.

10.0 DEFINITIONS

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.

In deciding if a complaint is an administrative action complaint it is irrelevant-

- how quickly the complaint was resolved; or
- to which area of the local government the complaint was made; or
- whether the complaint was a written or verbal complaint; or
- whether or not the complaint was made anonymously

Affected person - is a person who is apparently directly affected by an administrative action of a local government.

Affected person's agent – either a professional advisor eg a solicitor or accountant, or other person acting on authorised behalf of the affected person.

Complainant – the affected person making a complaint.

Enquiry – a request for information.

Executive Management Team – CEO, Directors and Manager People and Organisational Development.

Level of service – the current capacity of Council to provide services as determined by the funding allocations in the annual budget at the level Council has determined the ratepayers have the capacity to fund (eg road maintenance schedule).

Request for service – a request for the Council to take action to satisfy the needs of a customer or ratepayer. This may be of a physical nature, such as a request to fill a pothole or to collect a stray dog, or a request for information. See OCP150 for clarification. ***This is not considered to be a complaint.***

Suggestion – an unsolicited idea for a proposed service or product improvement.

The Act – *Local Government Act 2009.*

11.0 FLOWCHART

