

G.03-A Administrative Action Complaints Procedure

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- CEO Chief Executive Officer
- MCCS Director Corporate & Community Services
- MES Director Engineering Services
- MFS Manager Finance & Administration
- MGC Manager Governance & Compliance

1 OBJECTIVE

A procedure to outline a process to be followed in dealing with administrative action complaints in accordance with section 268 the *Local Government Act 2009* and section 306 of the *Local Government Regulation 2012*.

The procedure also has regard to the *local government principles* as defined in section 4 of the *Local Government Act 2009*.

2 SCOPE

This procedure is pursuant to the following local government principles, thereby allowing Council the flexibility to adequately deal with complaints, having regard to the size of Council and its community population:

- transparent and effective processes, and decision-making in the public interest; and
- sustainable development and management of assets and infrastructure, and delivery of effective services; and
- democratic representation, social inclusion and meaningful community engagement; and
- good governance of, and by, local government; and
- ethical and legal behaviour of Councillors and local government employees.

3 STATEMENT

3.1 COMPLAINTS PROCESS

In the first instance, a complainant should contact the relevant service area of the Council, provide their rationale why they believe the decision to be wrong and request rectification of the decision. It may be apparent on the face of the complaint that an error has been made and that the administrative action in question can be promptly remedied. An explanation of the Council's action or decision may be sufficient to satisfy the complainant in a particular case.

If rectification is not forthcoming then the following steps describe the model adopted by Council for handling complaints:

Step 1 – Intake and assessment

Step 2 – Internal review and investigation

Step 3 – Complaint finalisation

Step 4 – External review

3.1.1 Step 1 – Intake and Assessment

CEO to review a complaint to determine:

- whether or not it is captured by the Administrative Action Complaints Policy and Procedures; and
- whether or not it warrants investigation.

If the complaint is to be investigated, the CEO, or delegate is to:

- complete the 'Register of Administrative Action Complaints';
- categorise the complaint by its severity and allot a timeframe to the complaint for resolution;
- give the investigator/reviewing officer written instructions stipulating the date by which the investigation is to be completed; and
- acknowledge receipt of the complaint and advise the complainant that the matter is to be investigated and the date the investigation is to be completed by.

If a complaint is not to be investigated, the CEO is to:

- acknowledge receipt of the complaint;
- advise the complainant that the complaint will not be investigated;
- provide the complainant with the reasons for the decision; and
- advise the complainant of any available avenues of appeal.

The procedure should also:

- require that a complaints officer, when investigating a complaint, must be equal to or senior to the original decision-maker; and
- identify a process for reviewing and investigating complaints where the subject of the complaint is the CEO.

3.1.2 Step 2 – Internal Review and Investigation

An investigation by a complaints officer should include, but not be limited to:

- ensure they act within their power and understand their role and terms of reference;
- establish a list of people to be interviewed and any files or locations to be inspected;
- conduct interviews and inspect sites and documents required;
- gather and record information by eg. ‘talking to both sides’;
- provide relevant information to those in the investigations;
- observe any legal requirements involved in making decisions;
- research and apply any relevant law;
- evaluate the evidence and make findings;
- identify factors that contributed to the complaint arising;
- formulate recommendations; and
- prepare a report clearly summarising the matter and results of the investigation, setting out findings and recommendations, including remedies if deemed appropriate.

3.1.3 Step 3 – Complaint Finalisation

Following a detailed investigation of a complaint by a complaints officer, written advice must be provided to the complainant detailing the outcome of the review and specifically addressing their concerns. A statement of reasons, amongst other things, would include the following:

- the allegation;
- identifying the applicable legislation and any relevant Council policy or procedure;
- the findings of fact;
- the analysis;
- the decision; and
- the reasons for the decision.

If, on the other hand, there are grounds to uphold a complaint, for whatever reason, the statement must outline the proposed remedies and timeframes for their implementation.

3.1.4 Step 4 – External Review

When a complainant remains dissatisfied with the investigative outcome the CEO will advise the complainant of their external review rights by the Queensland Ombudsman or other relevant entity.

It should be clearly noted that a customer request or request for service is not an administrative action in terms of *the Act*. However, if Council fails to act on such requests or its rectification actions are considered inappropriate, then its actions or its failure to act is an administrative action as defined in *the Act*.

Complaints must be dealt with quickly and efficiently and every effort must be made by Council officers to achieve this outcome.

3.2 LODGING A COMPLAINT

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

- verbally, in person to a Council officer, clearly indicating that it is a complaint;
- in writing (by letter, facsimile or by completing a complaint form);
- by email to admin@quilpie.qld.gov.au; or
- by or through an agent.

All complaints are to be referred to the CEO for appropriate action and recording into the complaints register. Every effort for assistance will be provided by Council officers in how to make a complaint and the process to be followed. In the first instance, complaints must be acknowledged in writing within seven (7) days.

3.3 COMPLAINTS OFFICER

All complaints are referred to the CEO who will assess the nature of the complaint and determine whether the complaint is to be investigated. Complaints will be reviewed as follows:

- Complaints about the conduct of Council officers are to be reviewed by the CEO;
- Complaints about the conduct of the CEO are to be reviewed by the Council;
- Complaints about decisions of Council, made by resolution, will be reviewed by Council after considering and weighing the additional information supplied by the complainant outlining why they believe the decision is unfair, unjust, unreasonable or wrong.

3.4 CRITERIA FOR REFUSING TO INVESTIGATE A COMPLAINT

Complaints must be assessed so that they are fully understood followed by an assessment as to whether it will be investigated. Criteria for this process are as follows:

- what the complainant wants as an outcome as it may be possible to amicably and informally resolve the matter quickly and without detailed investigation;
- whether the resources required to deal with the matter would be disproportionate to the complaint's significance and likely outcome;
- what remedies would be available;
- if the complaint has previously been dealt with under the Administrative Action Complaints procedure; and
- sufficient direct interest.

Further to sufficient direct interest above, although the CEO may refuse to investigate a complaint if he or she reasonably considers that the complainant does not have sufficient direct interest in the administrative action, it is important to note that this is a discretionary power which may or may not be exercised. Therefore, the CEO may, depending on the particular circumstances, decide to accept a complaint for investigation despite the complainant not having a sufficient direct interest in the matter.

3.5 INVESTIGATING A COMPLAINT

The investigation of a complaint must be undertaken by the complaints officer in an independent, impartial and objective manner. When conducting an investigation the complaints officer will adhere to the following principles:

- Procedural fairness/natural justice;
- The civil standard of proof (balance of probabilities) is to apply;
- Confidentiality must be maintained to the extent the law permits; and
- Lawfulness of a particular action is not necessarily decisive of the issue in dispute. The complaints officer will also assess whether the action was unfair, unreasonable or wrong.

The complaints officer must also follow the four stages of the investigative process as outlined in section 1.1 of this procedure.

If necessary, the complaints officer should contact the complainant to negotiate an extension of time if standard timeframes cannot be met. Contact should be made as soon as possible (i.e. as soon as the officer becomes aware of the fact the timeframe is not likely to be achieved, or before the expiry of the timeframe).

3.6 EXTERNAL REVIEW

Advice to a complainant should include reference to other external review entities, in the event they seek further review. Council will make every effort to cooperate with external review.

3.7 MONITORING AND REPORTING

The complaint management process will be reviewed and evaluated in accordance with set timeframes as specified in the policy and procedure.

Complaints, including the register of complaints, will be reviewed annually and reported to Council.

4 DEFINITIONS

<u>Customer request</u>	means a Council process that records and monitors public feedback, suggestions and problems with there being a formal procedure for appropriate action.
<u>Request for service</u>	a request from a person seeking a service normally provided by Council whether it be free or on a cost-recovery basis.
<u>Review</u>	to undertake a second or repeated examination of a past event or decision, taking into consideration the facts and circumstances of such event or decision

5 RELATED POLICIES | LEGISLATION | OTHER DOCUMENTS

Queensland Ombudsman's Office www.ombudsman.qld.gov.au

IX #	Details
238666	G.03 Administrative Action Complaints Policy