

## INTENT

The purpose of this procedure is to outline the process for resolving administrative action complaints.

## SCOPE

This procedure applies to all employees, Councillors and Councillor Advisor.

## DEFINITIONS

**Administrative action complaint** means a complaint about an administrative action of Council as outlined in section 268 of the *Local Government Act 2009*.

**Affected person** means a person who is apparently directly affected by an administrative action of Council.

**Complainant** means a person who makes the complaint.

**Complaint** means an Administrative Action Complaint.

**Employee** means a local government employee as defined pursuant to the *Local Government Act 2009*.

**Non-Government Entity** is an entity engaged to perform functions on behalf of Council.

## PROCEDURE PRINCIPLES

### 1. What is an administrative action complaint (AAC)?

An AAC is a complaint about an administrative action of Council. The *Local Government Act 2009* defines an administrative action as:

- 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 intentions; and
- iv. the making of a recommendation.

AACs include:

- A complaint relating to how a previous request was handled or processed by Council.
- A request for an Internal Review of a decision made, or a response provided by Council.
- A failure to complete a request for service.
- A failure to provide a decision within a specific timeframe.
- A failure to provide a response.
- A competitive neutrality complaint.
- A breach of an individual's privacy.

Complaints made to Council about a Non-Government Entity will be dealt with in accordance with this procedure as if the complaint is an administrative action complaint.

## 2. What is not an AAC

2.1. The following are not considered an AAC and may be reviewed or investigated under another process:

- Complaint about corrupt conduct of the Chief Executive Officer – refer to Complaints about the Chief Executive Officer Policy.
- Complaint about Councillor conduct – which are referred to the Office of the Independent Assessor
- Request for service, such as reports of potholes.
- Request for information or clarification of previously provided information.
- Suggestions or enquiries.
- Petitions to Council.
- Resolutions or decisions made by Council at an Ordinary or Special Meeting (i.e. annual budget meeting).
- Complaint made about an investigation which is current or ongoing and a decision has not yet been made.

## 3. How to lodge a complaint

3.1 A complaint can be made by an affected person by:

- Completing the AAC form found on Council's website – <https://www.bundaberg.qld.gov.au/complaints-disclosures>
- Emailing [complaints@bundaberg.qld.gov.au](mailto:complaints@bundaberg.qld.gov.au);
- Post to PO Box 3130, Bundaberg QLD 4670;
- Telephone to 1300 883 699; or
- Visiting a customer service centre.

Complaints about a Non-Government Entity should be directed to the Non-Government Entity in the first instance. If the complainant is not satisfied with the Non-Government Entity's response, a complaint may be made to Council.

### 3.2 Anonymous complaint

An affected person may choose to remain anonymous. However, sufficient details must be included in the complaint, to enable Council to fully investigate the matter, request further information or provide feedback.

It is recommended to lodge an anonymous complaint using the AAC form to ensure sufficient information is included for Council to review or investigate.

A temporary email address may allow for anonymity while enabling Council employees to request additional complaint details, to assist in conducting the AAC review.

### 3.3 Assistance to lodge a complaint

Council’s Governance and Legal Services Team can provide assistance to a complainant on how to make a complaint if required, including what information Council requires to assess and review the complaint and the process that is followed.

## 4. Complaint assessment and acknowledgement

An assessment of a received complaint is completed to determine if it meets the criteria of an AAC. If there is no direct interest between the complaint and the complainant, alternate options will be provided on how to submit their request.

In deciding if a complaint is an AAC, it is irrelevant:

- a) how quickly the complaint was resolved; or
- b) which area of Council the complaint was made to; or
- c) whether the complaint was a written or verbal complaint; or
- d) whether or not the complaint was made anonymously.

Following assessment, an acknowledgement will be provided within 10 business days to the complainant advising how the complaint will be dealt with – under this procedure, or otherwise.

A Complaint Assessment & Referral Form should be used by employees to assess complaints and actions to follow.

## 5. Processing timeframes

Council is committed to dealing with complaints quickly and efficiently, in a fair and objective way. The length of time taken to deal with a complaint may depend on:

- a) The urgency of the situation in terms of loss or damage likely to be suffered by the complainant if it is not resolved quickly;
- b) The complexity of the complaint issue/s;
- c) Whether the complaint requires internal review.

The following is provided as a guide to the types of complaints and the processing timeframes.

Complaint type	Criteria	Decision timeframe
Low complexity	Complaints requiring minimal investigation and may be easily addressed through provision of information or negotiating a desired outcome.	Up to 20 business days
Medium complexity	Complaints requiring some research into the matter and consultation with other business units.	Up to 30 business days
High complexity	Complaints requiring high level research, a large number of complaint issues and are of a very complex nature.	Up to 45 business days

The complainant may be contacted to provide additional information to support issues raised, which may help to correctly assess and investigate the matter.

If it is necessary to extend a decision timeframe, the complainant will be advised on, or before the initial due date.

## 6. Refusing to deal with a complaint

Council may refuse to deal with a complaint or discontinue a review, if:

- it is a frivolous or vexatious complaint without grounds, lacking substance or with an intention to cause harm or harass (as outlined in 2.3.1 of the Complaints Management Policy);
- the complaint has previously been investigated, and no new information has been provided by the complainant; or
- the complainant displays unreasonable or unacceptable conduct – refer to Managing Unreasonable and Unacceptable Customer Conduct (PD-7-513).

## 7. Complaint review/ investigation

7.1 Following assessment, the complaint may be referred to an employee with the necessary knowledge and experience to conduct an efficient and effective investigation or internal review. This should be an employee who has had no prior involvement in the complaint, such as a person in a more senior role. In the case where multiple employees have been involved, or where a complaint is about several matters across Council departments, Governance and Legal Services may conduct an independent review.

Employees dealing with an AAC must act in a fair, unbiased, impartial and objective way. If there is any conflict of interest identified during the investigation, a Conflict of Interest Declaration should be completed so the complaint can be reallocated.

### 7.2 Review/ investigation steps

The reviewing employee will generally use the following process to conduct any investigation or review of an AAC:

- Gather and/or research information for analysis.
- Review applicable legislation, Council policy, procedure local laws for compliance.
- Liaise with employees involved in the act or decision previously made.
- Obtain additional information from the complainant if required.
- Prepare a report detailing history of the complaint; timelines; findings, and recommendations.
- Consider the *Human Rights Act 2019* to ensure proper consideration to human rights is made when making a decision. Consider using the Human Rights Assessment form: <https://forms.office.com/r/QDaciztxtC>.
- Gain approval or endorsement from the appropriate Manager/Supervisor for any proposed recommendations.

## 7.3 Outcome advice and resolution

In resolving a complaint, the reviewing employee can consider the following:

- Providing more information or an explanation about how or why the problem occurred and steps taken to avoid any future reoccurrence.
- Admission of error or an apology where Council was at fault.
- A change of the original decision made.
- Waiving of a penalty.
- Review of policies or procedures.
- Employee training or professional development.
- Action/s Council has taken to address any issues found whilst reviewing the complaint.

Remedy actions and/or recommendations should be approved or endorsed by a Supervisor, Manager or Executive Leadership Team member prior to an outcome or remedy actions being offered to the complainant.

Should a complainant withdraw their complaint, the matter will be considered resolved and this should be confirmed with the complainant in writing.

The complainant will be notified of the outcomes which may include:

- Summary of the lodged complaint.
- The reviewing employee's name/title.
- Findings from the review or investigation.
- Outcomes based on the findings including meaningful reasons for same.
- Review rights.

Where a complaint relates to a Non-Government Entity, the entity will be notified of the outcome including any suggested remedy actions or recommendations.

## 7.4 Personal information

It is important that no personal information about another individual is released in the outcome of a complaint. Giving the complainant procedural or administrative information and the potential outcomes of the complaint process should involve no personal information about another individual.

Providing a complainant with a status update that includes personal information of third persons such as name, detailed description of witnesses, location, date/s and time/s of interviews etc. may be a breach of the *Information Privacy Act 2009*.

## 8. External review rights

8.1 If the complainant is not satisfied with the outcome of the review/investigation, they may refer the matter to the Queensland Ombudsman.

Any referrals, requests for information or preliminary reviews received from the Queensland Ombudsman will be managed by Governance and Legal Services, who will contact the appropriate section for more information if necessary.

## 9. Reporting and evaluation

- An AAC annual summary is published in Council's Annual Report (as required by section 187 of the *Local Government Regulation 2012*).
- Identification and analysis of complaint trends presented to the Executive Leadership Team as required.
- Recommendations on improvements to Council's policies, procedures, training etc.
- Evaluation of the effectiveness of the policy and process.

## 10. Employee training

Governance and Legal Services will ensure appropriate training and guidance is provided to employees. This may include:

- How to determine an AAC.
- Responsibilities of Council employees, the review/investigating employee and Governance and Legal Services.
- Outline of policy and procedures.
- Tracking and recording complaints.
- Monitoring effectiveness.

## 11. Records

Council must record all AACs within the AAC register.

Governance and Legal Services maintains the AAC register. Associated records, such as complaint forms and reports are kept in accordance with Council's Recordkeeping Policy.

The review/investigating employee for the complaint must ensure all documents, files and decisions are filed appropriately and made available to Governance and Legal Services, where required upon request.

## 12. Responsibility and/ or authorities

### 12.1 Legislation

- Section 268(1) of the *Local Government Act 2009* states Council must adopt a process for resolving an AAC.
- Section 306 of the *Local Government Regulation 2012* requires Council to adopt a complaints management process to achieve its responsibilities under the Act.

### 12.2 Governance and Legal Services

Responsible for:

- Review and management of the Complaints Management Policy and associated procedures;

- Coordinating AACs and keeping a register;
- Providing guidance to employees, including training and development;
- Reporting to Managers or Executive Leadership Team, when required;
- Liaison with Queensland Ombudsman and the external review process.

## REFERENCES/ASSOCIATED DOCUMENTS

- CP-3-028 Complaints Management Policy
- DT-7-145 Administrative Action Complaint Investigation Report
- DT-7-146 Administrative Action Complaint Acknowledgement Letter
- FC-7-211 Administrative Action Complaint Flowchart
- FM-7-630 Administrative Action Complaint Form
- FM-7-1065 Complaint Assessment & Referral Form
- Recordkeeping Policy

## DOCUMENT CONTROLS

This procedure will be reviewed biennially or in response to changes in law or best practice.

## PROCEDURE OWNER

Chief Legal Officer.