

Gladstone Regional Council

Council Policy

Title	COMPLAINT MANAGEMENT
Policy Number	P-2021-06
Business Unit/s	FINANCE GOVERNANCE AND RISK CUSTOMER EXPERIENCE
Date of Adoption	
Resolution Number	
Review Date	
Date Repealed	

1.0 PURPOSE:

This policy outlines how Gladstone Regional Council (Council) will manage complaints lodged with Council.

2.0 SCOPE:

This policy applies to all complaints lodged with Council including Administrative Action Complaints as defined in section 268(1) of the *Local Government Act 2009* and section 306 of the *Local Government Regulation 2012*.

This policy does not include the management of Customer Service Requests.

3.0 RELATED LEGISLATION:

- *Crime and Corruption Act 2001;*
- *Human Rights Act 2019;*
- *Information Privacy Act 2009;*
- *Local Government Act 2009;*
- *Local Government Regulation 2012;*
- *Public Interest Disclosure Act 2010;*
- *Right to Information Act 2009.*

4.0 RELATED DOCUMENTS:

- Code of Conduct Policy;
- Complaint Management Process Corporate Standard;
- Councillor Code of Conduct Policy;
- Dealing with Complaints involving the Chief Executive Officer Policy;
- Information Privacy Policy;
- Petitions Corporate Standard;
- Public Interest Disclosure Procedure Corporate Standard;

- Unreasonable Customer Conduct Policy;
- Unreasonable Customer Conduct Corporate Standard.

5.0 DEFINITIONS:

To assist in interpretation of this policy the following definitions apply:

“Administrative Action Complaint” means an Administrative Action Complaint as defined in section 268(2) of the *Local Government Act 2009*; namely *“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”.*

“Affected Person” means:

1. For the purposes of an Administrative Action Complaint - *a person who is apparently directly affected by an administrative action of a local government; or*
2. For a Human Rights Complaint – a person the subject of a public entity’s alleged contravention of section 58(1) of the *Human Rights Act 2019*; or
3. For a Competitive Neutrality Complaint – it is as defined in section 48(3) of the *Local Government Act 2009*; namely *“an affected person is -*
 - (a) a person who -*
 - (i) competes with the local government in relation to the business activity; and*
 - (ii) claims to be adversely affected by a competitive advantage that the person alleges is enjoyed by the local government; or*
 - (b) a person who -*
 - (i) wants to compete with the local government in relation to the business activity; and*
 - (ii) claims to be hindered from doing so by a competitive advantage that the person alleges is enjoyed by the local government.”*

or

4. For a Statutory Review or Appeal – it is a person whose interests are adversely affected or could be adversely affected (for example: the infringement notice recipient; the property owner for a compliance notice involving land; the registered owner of a motor vehicle for vehicle related offences).

“Agent” means a person appointed to act on behalf of an Affected Person who is unable to lodge a complaint personally due to poor health, distance, language, legal or other reasons.

“Competitive Neutrality Complaint (CNC)” as defined by section 48(2) of the *Local Government Act 2009* and involves a failure of a local government to conduct a business activity in accordance with the competitive neutrality principle. CNC complaints can only be lodged by an ‘affected person’ and

must be dealt with in accordance with Chapter 3, Part 2, Division 7 of the *Local Government Regulation 2012*.

“Complainant” means the person, or where applicable their agent, who is making the complaint.

“Complaint Management Process Corporate Standard” means the Council corporate standard setting out the process to be applied in managing complaints.

“Councillor” means a Councillor (including the Mayor) of Council.

“Customer Service Request” means a request made of Council for the provision of a service or product (e.g. a request to address a barking dog issue, a request for a pothole repair, a request to have an overflowing waste bin emptied).

“Employee” means an employee of Council appointed under the *Local Government Act 2009*.

“F frivolous Complaint” means a complaint that is trivial or lacking merit to warrant the use of Council resources to investigate the complaint.

“Human Rights” as defined in Part 2, Divisions 2 and 3 of the *Human Rights Act 2019* and includes:

- taking part in public life;
- privacy and reputation;
- cultural rights – generally;
- cultural rights – aboriginal and Torres Strait Islander peoples;
- property rights;
- peaceful assembly and freedom of association;
- freedom of expression;
- freedom of movement;
- freedom of thought, conscience, religion and belief;
- recognition and equality before the law;
- right to life;
- protection from torture and cruel, inhuman or degrading treatment;
- freedom from forced work;
- protection of families and children;
- right to liberty and security of person;
- humane treatment when deprived of liberty;
- right to education;
- right to health services;
- fair hearing;
- rights in criminal proceedings;
- children in the criminal process;
- right not to be tried or punished more than once; and
- retrospective criminal laws.

“Human Rights Complaint” means a complaint about an alleged contravention by Council in relation to:

- acting or making a decision in a way that is not compatible with human rights; or
- in making a decision, failing to give proper consideration to a human right relevant to the decision.

“Petition” means a written and signed request for Council to do something or to refrain from doing something relating to matters which Council is authorised to determine. A petition must be signed by five (5) or more people with at least two (2) different residential addresses who have a direct interest in the Gladstone Regional Council local government area as residents, property owners, business people or some other relevant capacity.

“Public Interest Disclosure (PID)” as defined in Chapter 2 of the *Public Interest Disclosure Act 2010* and relates to a disclosure, in the public interest, of information about wrongdoing in the public sector.

For an allegation to be considered a PID it must meet one of the following three criteria, being wrongdoing by any person, including a public-sector officer, about:

- (1) a substantial and specific danger to the health or safety of a person with a disability;
- (2) a substantial and specific danger to the environment; or
- (3) a reprisal action associated with a PID; **OR**

A public officer¹ may also make a disclosure about:

- (a) corrupt conduct;
- (b) maladministration that adversely affects a person’s interest in a substantial and specific way;
- (c) substantial misuse of public resources;
- (d) substantial and specific danger to public health and safety; or
- (e) substantial and specific danger to the environment.

“Statutory Review or Appeal” means an internal review of a formal notice issued under legislation (for example: an infringement notice, compliance notice, enforcement notice, etc).

“Unreasonable Customer Conduct” as defined in the Unreasonable Customer Conduct Policy and Corporate Standard and generally involves conduct which, because of its nature or frequency, raises health, safety, resource or equity issues. It includes conduct beyond that commonly demonstrated by customers when they bring a grievance to Council.

“Vexatious Complaint” means a complaint that has been made other than in good faith for a purpose to make mischief or cause harm or a complaint which lacks sufficient grounds to warrant the use of Council resources to investigate the complaint.

6.0 POLICY STATEMENT:

6.1 Commitment

Council recognises complaints are a valuable source of customer feedback, acknowledging the rights of persons to lodge such complaints and to have such complaints dealt with fairly, objectively and in a timely manner.

Council will ensure that the Complaints Management Policy and Complaints Management Process Corporate Standard are available to the public:

- at Council's public offices; and
- on Council's website.

¹ Under section 7(1) of the *Public Interest Disclosure Act 2010*, a public officer means an employee, member or officer of a public sector entity.

Council will ensure employees are aware of this policy, the associated corporate standard, and their obligations. This will be achieved through regular training, internal communication, consultation during review of the policy and corporate standard, and notification of changes and updates to the policy and corporate standard.

6.2 Classification of Complaints

Complaints have been classified into the following categories and will be managed in accordance with the processes set out in the Complaint Management Process Corporate Standard:

1. Administrative Action Complaint (AAC);
2. Statutory Review or Appeal;
3. Complaint regarding the conduct of an Employee/s;
4. Public Interest Disclosure²;
5. Human Rights Complaint;
6. Petition;
7. Competitive Neutrality Complaint (CNC)³;
8. Complaint regarding the conduct of the Chief Executive Officer;
9. Complaint regarding the conduct of the Mayor and/or Councillors⁴.

6.3 Lodgement and Acceptance of Complaints

Complaints may be lodged in the following way:

1. in writing (letter, email, facsimile, online form on Council's website, etc.);
2. verbally (telephone or in person); or
3. via an authorised agent.

With the exception of Statutory Reviews or Appeals and Competitive Neutrality Complaints, which must be submitted in writing, all other complaints will be accepted in any of the above forms. Complaints may be anonymous except for those complaints which can only be accepted from an 'affected person'.

Only an affected person or their agent can lodge the following types of complaints:

1. Administrative Action Complaint;
2. Statutory Review or Appeal;
3. Human Rights Complaint;
4. Competitive Neutrality Complaint.

Such complaints must be received from:

- the affected person directly communicating with an employee; or
- the affected person consenting to another person (their agent) communicating a complaint on their behalf to an employee.

² Refer to sections 12 & 13 of the *Public Interest Disclosure Act 2010* for the type of information that, if disclosed as part of a complaint, should be managed under Council's Public Interest Disclosure Procedures.

³ Refer section 48 of the *Local Government Act 2009* and Chapter 3, Part 2, Division 7 of the *Local Government Regulation 2012* for the process of dealing with competitive neutrality complaints.

⁴ Refer Chapter 6, Part 2, Division 6 of the *Local Government Act 2009* which sets out the process of dealing with complaints about the conduct and performance of Councillors.

Where consent cannot be provided by an affected person and an agent is acting on behalf of the affected person, the agent must provide the employee with a signed statutory declaration confirming that they:

- are acting on behalf of the (named) affected person with the explicit consent of the affected person with respect to the complaint being made;
- have been nominated by the affected person as the person to receive all communications from Council with regard to the complaint made; and
- have, in the complaint made by them on behalf of the affected person, to their knowledge truthfully and correctly disclosed the subject of the complaint to the employee as was advised to them by the affected person.

6.4 What Complaints Should Include

- All relevant contact information including the person's name, address, telephone and/or email contact details unless the person chooses to remain anonymous or lodges a complaint via an agent.
- Sufficient details to enable investigation of the complaint.
- Details of any loss or detriment a person claims to have suffered.
- A list of any other persons, agencies or authorities that the person has reported the complaint to.
- An outline of the outcome the person seeks (e.g. an apology, a different decision, restitution, a change in policy or procedure).
- Any supporting information and documentation including names and contact details of any other persons who can support the complaint.

6.5 Assistance to Make a Complaint

Language assistance is available to non-English speakers by contacting the Translating and Interpreting Service (TIS National) on 131 450.

Individuals will be required to advise TIS National their preferred language, name, the organisation needed to be contacted (Gladstone Regional Council), and the phone number of the organisation (07 4970 0700).

Assistance for hearing or speech impaired persons is available by contacting the National Relay Service on 1300 555 727 (speak and listen) or 133 677 (type and listen or speak and read).

6.6 Frivolous and Vexatious Complaints

Complaints considered to be Frivolous or Vexatious, or where there is not sufficient information or grounds, will not be investigated and the complainant will be advised accordingly.

Persons who engage in making frivolous complaints may be managed under Council's Unreasonable Customer Conduct Policy and Corporate Standard.

Persons who engage in vexatious complaints may be subject to other legislative action where it is considered warranted (i.e. defamatory and slanderous activity).

6.7 Unreasonable Customer Conduct

Where a person engages in Unreasonable Customer Conduct, an assessment to determine whether restrictions should be applied will be made in accordance with Council's Unreasonable Customer Conduct Policy and Corporate Standard.

6.8 How Complaints will be Managed

Complaints will be managed in accordance with:

- the Complaint Management Process Corporate Standard; and
- the relevant legislation applying to the type of complaint lodged.

The Complaint Management Process Corporate Standard provides complainants with advice on the notifications to be received following lodgement of a complaint. Furthermore, the corporate standard includes the further appeal or review rights available should the complainant be dissatisfied with the outcome of the investigation of their complaint.

6.9 Reporting

Administrative Action Complaints

Under section 187 of the *Local Government Regulation 2012* Council must set out in its annual report the following matters with respect to Council's commitment to dealing with Administrative Action Complaints:

1. a statement on Council's commitment to dealing fairly with Administration Action Complaints;
2. a statement on the implementation of the complaints management process, including where the policy and process corporate standard can be obtained and an assessment of Council's performance in resolving complaints under that process;
3. number of Administrative Action Complaints made for the financial year;
4. number of Administrative Action Complaints resolved for the financial year;
5. number of Administrative Action Complaints not resolved for the financial year;
6. number of Administrative Action Complaints under 3. that were made in a previous financial year and carried forward.⁵

Public Interest Disclosure

Council has an obligation under the *Public Interest Disclosure Act 2010* to report information to the Queensland Ombudsman on public interest disclosures received.

Council will report information in accordance with the *Public Interest Disclosure Act 2010* and Council's Public Interest Disclosure Procedure Corporate Standard.

Complaints regarding the conduct of Mayor, Councillors, CEO and Employees

Where the circumstances warrant, the *Local Government Act 2009* and the *Crime and Corruption Act 2001* requires Council to report conduct complaints associated with Councillors and employees to the Department of Local Government and/or Crime and Corruption Commission.

⁵ Section 187 *Local Government Regulation 2012*.

Competitive Neutrality Complaints

Under section 45(3) of the *Local Government Regulation 2012* Council must report all Competitive Neutrality Complaints to the Queensland Productivity Commission (QPC), and if investigated by the QPC, make the resulting report available to the public.

6.10 Identification, Analysis and Response to Complaint Trends and Monitoring of the Complaints Management Process

Section 306 of the *Local Government Regulation 2012* requires that mechanisms are in place to identify, analyse, and respond to complaint trends and to monitor the effectiveness of the complaint management process (for example, by monitoring the time taken to resolve complaints). These review mechanisms are set out in the Complaint Management Process Corporate Standard.

7.0 ATTACHMENTS:

Nil.

8.0 REVIEW MECHANISM:

This policy will be reviewed when any of the following occur:

1. The related legislation or governing documents are amended or replaced; or
2. Other circumstances as determined by resolution of Council or the CEO; or
3. Three years from date of adoption.

TABLE OF AMENDMENTS			
Document History	Date	Council Resolution No.	Notes (including the prior Policy No, precise of change/s, etc)
Originally Approved	08/04/2008	08/34	
Amendment 1	05/07/2011	G/5.1.5	
Amendment 2	18/03/2014	G/14/1926	
Amendment 3	17/03/2015	G/15/234	
Amendment 4	01/11/2016	G/16/2911	FCGC/16/0102
Amendment 5	04/12/2018	G/18/3595	Re-drafted to incorporate all complaint types and new operating model.
Amendment 6			Formerly P-2018-25. Reviewed to consider the implications of the <i>Human Rights Act 2019</i> .

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LEISA DOWLING
CHIEF EXECUTIVE OFFICER