



# Gladstone Regional Council

## Council Policy

<b>Title</b>	<b>COMPLAINT MANAGEMENT</b>
<b>Policy Number</b>	<b>P-2018-25</b>
<b>Business Unit/s</b>	<b>FINANCE GOVERNANCE &amp; RISK CUSTOMER EXPERIENCE</b>
<b>Date of Adoption</b>	<b>4 DECEMBER 2018</b>
<b>Resolution Number</b>	<b>G/18/3595</b>
<b>Review Date</b>	<b>4 DECEMBER 2021</b>
<b>Date Repealed</b>	

### 1.0 PURPOSE:

This Policy outlines how Council will manage complaints lodged with Gladstone Regional Council.

### 2.0 SCOPE:

This policy applies to all complaints lodged with Gladstone Regional 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:

*Local Government Act 2009*  
*Local Government Regulation 2012*  
*Public Interest Disclosure Act 2010*  
*Crime and Corruption Act 2001*  
*Right to Information Act 2009*  
*Information Privacy Act 2009*

### 4.0 RELATED DOCUMENTS:

Complaint Management Process Corporate Standard  
Public Interest Disclosure Procedure Corporate Standard  
Dealing with Complaints involving the Chief Executive Officer Policy  
Councillor Conduct Code Policy  
Code of Conduct Policy (for employees)  
Unreasonable Customer Conduct Policy  
Unreasonable Customer Conduct Corporate Standard  
Petitions Corporate Standard  
Information Privacy Policy

## 5.0 DEFINITIONS:

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

**"Act"** means *Queensland Local Government Act 2009*.

**"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 competitive neutrality complaint – it is as defined in Section 48(3) of the *Local Government Act 2019* – namely:

“(3) 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

3. 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 the 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)"** is 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*.

**"Complaint Management Process Corporate Standard"** means the Council corporate standard setting out the process and procedures to be applied in managing complaints.

**"Council"** means Gladstone Regional Council.

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

**"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*).

**"Frivolous Complaint"** means a complaint that is trivial and not warranting the use of Council resources in investigating the complaint.

**"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)"** is 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 officer 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, or compliance notice, enforcement notice, etc).

**"Unreasonable Customer Conduct"** is defined in Council 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 is considered to have been made to make mischief or cause harm to Council, a Councillor or a Council Employee or lacking sufficient grounds to warrant the use of Council resources to investigate the complaint.

## 6.0 POLICY STATEMENT:

### 6.1 Commitment

Council acknowledges that complaints are a valuable source of customer feedback and acknowledges 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 its Complaints Management Policy and the Complaints Management Process Corporate Standard (which incorporates related processes and procedures) will be available to the public:

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

Council will ensure that Council Employees are aware of this Policy and associated Corporate Standard and are informed of their obligations through regular training, email advice and Council's internal communication. Council Employees will be kept informed of changes and updates to the policy and corporate standard.

### 6.2 Classification of Complaints

Council has classified complaints into the following categories which will be managed by the process and procedures set out in Council's Complaint Management Process Corporate Standard:

1. Administrative Action Complaint (AAC);
2. Public Interest Disclosure<sup>1</sup>;
3. Petition;
4. Complaint regarding the conduct of an Employee/s;
5. Complaint regarding the conduct of the Chief Executive Officer;
6. Complaint regarding the conduct of the Mayor and/or Councillors<sup>2</sup>;
7. A Statutory Review or Appeal;
8. Competitive Neutrality Complaint (CNC)<sup>3</sup>.

### 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 which must be submitted in writing, 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'.

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<sup>1</sup> 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

<sup>2</sup> 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

<sup>3</sup> 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

Only an Affected Person or their Agent can lodge the following types of complaints:

1. Administrative Action Complaint;
2. Competitive Neutrality Complaint;
3. A Statutory Review or Appeal.

Such complaints must be received from:

- the Affected Person directly communicating (in any form) with a Council Employee; or
- the Affected Person asking another person (their Agent) to communicate a complaint on their behalf (in any form with or without identifying the Affected person) to a Council Employee.

Where a person is acting as an Agent on behalf of an Affected Person, the Agent must provide the Council Employee with a signed statutory declaration confirming that they:

- are acting on behalf of the 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 Council 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 and/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 for people from non-English speaking backgrounds by calling the Telephone Interpreter Service (TIS) on 1800 131 450. Advise the TIS of the preferred language and ask to speak to the Gladstone Regional Council on 07 4970 0700.

Assistance for hearing or speech impaired is available by contacting the National Relay Service on 1300 555 727 (speak and listen) or 133677 (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. Those that engage in making frivolous complaints may be managed under Council's Unreasonable Customer Conduct Policy and Corporate Standard. Those that engage in vexatious complaints may be subject to other legislative action where it is considered warranted (ie. defamatory and slanderous activity).

## 6.7 Unreasonable Customer Conduct

Where a person engages in Unreasonable Customer Conduct, an assessment will be made against Council's Unreasonable Customer Conduct Policy and Corporate Standard to determine if warnings or customer contact restrictions should be applied.

## 6.8 How Complaints will be Managed

Complaints received by Council will be managed in accordance with Council's Complaint Management Process Corporate Standard and in accordance with the standards contained in Council's Customer Service Charter and the relevant legislation applying to the type of complaint lodged.

The process and procedures contained in the Complaints Management Corporate Standard will include advice on the notifications that complainants can expect to receive in response, and on any further appeal or review rights available should they 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:

- a statement on Council's commitment to dealing fairly with Administration Action Complaints;
- 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;
- number of Administrative Action Complaints made for the financial year;
- number of Administrative Action Complaints resolved for the financial year;
- number of Administrative Action Complaints not resolved for the financial year;
- number of Administrative Action Complaints under paragraph (a)(iii) that were made in a previous financial year and carried forward.<sup>4</sup>

### Public Interest Disclosure

Council has obligations under the *Public Interest Disclosure Act 2010* to report information to the Queensland Ombudsman on public interest disclosures received. The information to be reported is contained in legislation and Council's Public Interest Disclosure Procedure Corporate Standard.

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<sup>4</sup> Section 187 *Local Government Regulation 2012*

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 elected members and Council Employees to the Department of Local Government and/or Crime and Corruption Commission.

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 complaints management process (for example, by monitoring the time taken to resolve complaints). These review mechanisms are set out in the 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	8/4/2008	08/34	
Amendment 1	5/7/2011	G/5.1.5	
Amendment 2	18/3/2014	G/14/1926	
Amendment 3	17/03/2015	G/15/234	
Amendment 4	01/11/2016	G/16/2911	FCGC/16/0102
Amendment 5	4/12/2018	G/18/3595	Re-drafted to incorporate all complaint types and new operating model.

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**LEISA DOWLING**  
**CHIEF EXECUTIVE OFFICER**