



# Gladstone Regional Council

## Policy

Title	<b>ADMINISTRATIVE ACTION COMPLAINT MANAGEMENT</b>
Policy Number	<b>P-2016-25</b>
Responsible Directorate	<b>CORPORATE AND COMMUNITY SERVICES</b>
Responsible Officer	<b>CHIEF INFORMATION OFFICER</b>
Date of Adoption	<b>01 NOVEMBER 2016</b>
Resolution Number	<b>G/16/2911 (FCGC/16/0102)</b>
Date Review Due	<b>01 NOVEMBER 2019</b>

### 1.0 PURPOSE:

The Administrative Action Complaint Management Policy has been developed to meet the requirements of *Section 268(1)* of the *Local Government Act 2009* whereby Council must adopt a process for resolving Administrative Action Complaints and the requirements of *Section 306* of the *Local Government Regulation 2012* that requires Council to adopt<sup>1</sup>

- (a) *a complaints management process that effectively manages complaints from their receipt to their resolution; and*
- (b) *written policies and procedures supporting the complaints management process.*

### 2.0 SCOPE:

This Administrative Action Complaint Management Policy applies to all Administrative Action Complaints received by Council.

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<sup>1</sup> The requirement for Council to 'adopt' means that the adoption of the process and written policies and procedures may only be carried out by Council by resolution and may not be carried out by a delegate of Council.

For clarity an **Administrative Action Complaint** is not a:

- Customer Service Request;
- complaint about Council, a Councillor<sup>2</sup> (except where the complaint relates to the use by the Councillor of a power delegated by Council to the Councillor<sup>3</sup>) or any Council Employee that does not involve an administrative action of Council;
- complaint about a breach of Council's Code of Conduct or the Councillor Conduct Code;
- *competitive neutrality complaint*<sup>4</sup>;
- complaint made under the *Public Interest Disclosure Act 2010*<sup>5</sup>.

### 3.0 RELATED LEGISLATION:

- Local Government Act 2009
- Local Government Regulation 2012
- Public Interest Disclosure Act 2010
- Right to Information Act 2009
- Information Privacy Act 2009

### 4.0 RELATED DOCUMENTS:

- Council's Administrative Action Complaint Management Corporate Standard
- Council's Administrative Action Complaint Management Training Manual
- Council's Customer Service Charter

### 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".

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<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> Only the Mayor and Councillors who are the Chairperson of a Standing Committee of Council may be delegated powers by Council.

<sup>4</sup> Refer *Section 48* of the *Local Government Act 2009* and *Section 43* of the *Local Government Regulation 2012* for the process of dealing with *competitive neutrality complaints*.

<sup>5</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 Policy and Procedures (P-1.00.08)

**"Administrative Action Complaint Management Corporate Standard"** means the Council corporate standard setting out the procedures (and other matters referred to in this policy) to be used by Council to ensure compliance with this policy.

**"Affected Person"** means an affected person as defined in *Section 268(3)* of the *Local Government Act 2009*; namely *"a person who is apparently directly affected by an administrative action of a local government"*.

**"Agent"** means a person appointed to act on behalf of an Affected Person who is unable to lodge an Administrative Action Complaint personally due to poor health, distance, language, legal or other reasons.

**"Chief Executive Officer"** means the person appointed as the Chief Executive Officer of Council under the *Local Government Act 2009*.

**"Complainant"** means the Affected Person making an Administrative Action Complaint or that Affected Person's Agent.

**"Complaint Management Process"** means the process for resolving Administrative Action Complaints under *Section 268(2)* of the *Local Government Act 2009* and is the complaints management process set out in this policy and the Council's Administrative Action Complaint Management Corporate Standard.

**"Complaint Management System"** - means the system utilised for recording and reporting details required for the effective management of all Administrative Action Complaints and to fulfil Council's statutory reporting requirements.

**"Complaint Review Panel"** - means a panel of Council Employees appointed by the Chief Executive Officer to review outcomes of Administrative Action Complaints.

**"Customer Service Request"** means a request made of Council for the provision of a service or product (for 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*).

**"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.

**"Frivolous Complaint"** - means a complaint that is considered by the Chief Executive Officer or delegate or the Complaint Review Panel to be trivial and not warranting the use of Council resources in the investigating the complaint.

**"Personal Information"** - means information or an opinion, including information or an opinion, true or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

**"Vexatious Complaint"** means a complaint that is considered by the Chief Executive Officer or delegate or the Complaint Review Panel 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 is dedicated to providing a level of service that does not attract complaints. Council acknowledges that complaints occur 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 Council's Administrative Action Complaints Management Policy and 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 the Administrative Action Complaint Management Corporate Standard and are informed of their obligations in regards to both through the induction process, regular training, email advice and Council's internal newsletter. Council Employees will be kept informed of changes and updates to the policy and standard via the same methods.

### **6.2 Council's Complaint Management Process**

Council's Complaint Management Process operates in accordance with this Policy and the Administrative Action Complaint Management Corporate Standard (which incorporates related processes and procedures to be followed).

#### **6.2.1 Receipt of Administrative Action Complaints**

Complaints may be received in writing (letter, email, facsimile etc.) or verbally (telephone or in person).

Complaints will be accepted regardless of the form in which they are received.

Complaints must be made by an Affected Person (or their Agent).

Complaints may be made anonymously.

Complaints may only come to the attention of Council through:

- 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 written statement (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.

### **6.2.2 Determination as to whether a complaint is an Administrative Action Complaint**

Determination as to whether a complaint is an Administrative Action Complaint shall be made by Council, the Chief Executive Officer, the Complaint Review Panel (as convened by the Chief Executive Officer) or Council Employees authorised by the Chief Executive Officer to make such determinations provided that no Council Employee shall make a determination with respect to a complaint about an administrative action of that same Council Employee.

The Mayor will make this determination with regard to any Administrative Action Complaint received that refers to the administrative actions of the Chief Executive Officer.

The Chief Executive Officer will make this determination with regard to any Administrative Action Complaint received that refers to the administrative actions of the Council or a Councillor.

In order to determine if a matter is an Administrative Action Complaint, regard will be given to the definitions of an "Administrative Action Complaint" and an "Affected Person" under the *Local Government Act 2009*. In this regard it must be determined that matter:

- is about an administrative action of Council, a Councillor or a Council Employee; and
- is being made by an Affected Person (or their Agent).

Until this determination is made the matter shall only be a potential Administrative Action Complaint.

When a decision is made that the matter is not an Administrative Action Complaint:

- the decision and reasons for the decision will be captured in the Council records system;
- the Complainant will be advised of the decision and reasons for the decision and of what action, if any, will be undertaken or of the applicable internal and/or external review options.

### **6.2.3 Recording of an Administrative Action Complaint**

Once it has been determined that the matter is about an administrative action of Council, a Councillor or a Council Employee and is being made by an Affected Person (or their Agent), the matter shall be recognised as an Administrative Action Complaint and confirmed as such in Council's Complaint Management System.

### **6.2.4 Criteria to be considered when assessing whether to investigate**

In determining whether an Administrative Action Complaint is to be investigated consideration will be given to:

- whether there is sufficient information provided, or, if insufficient information has been provided, is additional information able to be obtained from the Complainant to enable the complaint to be investigated;

- whether there are sufficient Council records available with respect to the administrative action that is the subject of the complaint and whether those records are accessible in a manner that will lend itself to an investigation of the complaint;
- whether the complaint has been previously investigated through another Administrative Action Complaint or another complaint process external to Council (e.g. State Ombudsman) or whether it has otherwise been resolved; and
- whether the complaint is considered to be Frivolous or Vexatious.

If, in the opinion of Council, the Chief Executive Officer, the Complaint Review Panel or Council Employee authorised by the Chief Executive Officer,

- there is sufficient information,
- records required for an investigation are accessible,
- the matter has not been previously investigated or otherwise resolved and
- the matter is not considered to be Frivolous or Vexatious,

then reasonable efforts will be undertaken to investigate the complaint made.

#### **6.2.5 How Administrative Action Complaints will be investigated**

Where an Administrative Action Complaint is to be investigated it shall be done in a manner that is impartial and objective in practice and in appearance therefore the Council Employee undertaking the investigation:

- will have the complaint referred to them in accordance with the Administrative Action Complaint Management Policy;
- will have appropriate training, experience and knowledge to undertake the investigation competently;
- will be senior to the original decision maker and preferably have had no prior involvement in any prior decisions on this complaint;
- will not be the Council Employee that was involved in the administrative action which is the subject of the complaint or, for the purposes of the investigation, be subordinate to or subject to direction by, the Council Employee that was involved in the administrative action which is the subject of the complaint;
- will not have a perceived or real conflict of interest arising from their relationship with the Complainant, the Council Employee who is the subject of the complaint or in relation to the conduct, the policies or procedures that are the subject of the complaint.

Administrative Action Complaints shall be dealt with quickly and efficiently and resolved as soon as practicable. The Administrative Action Complaint Management Corporate Standard will set out acceptable timing and allocation of resources for investigating and resolving Administrative Action Complaints.

#### **6.2.6 Communication of Outcome of Administrative Action Complaints**

The Complainant, where known and where contact details have been provided, will be advised in writing promptly of the decision made in regards to the complaint received. That written advice shall be recorded in Council's Complaint Management System and shall include the date on which such advice was provided.

Such advice shall set out:

- the complaint details as recorded by Council;

- where it was determined that the complaint was an Administrative Action Complaint and investigations were carried out, the decision made and the reasons for that decision;
- where it was determined that the complaint was an Administrative Action Complaint and investigations were not carried out, the decision made and the reasons for that decision; and
- review options available to the Complainant if they are not satisfied with the decision made (referral to Council's Complaint Review Panel, State Ombudsman etc.).

Where the Complainant has provided a method of contact that allows only for a verbal response (e.g. via telephone) the Complainant is to be contacted verbally (via the nominated telephone number) and provided with the advice. The verbal advice provided shall follow the format of any written advice that would otherwise be provided.

That verbal advice shall be recorded in Council's Complaint Management System with a notation that the information was relayed verbally to the Complainant and shall include the date on which such advice was provided and the method used (telephone, skype etc.).

The Complainant is to be informed at this time that written advice can be provided to an email or postal address upon request from them.

Where a complaint has been received anonymously there is no ability for Council to provide a response to the Complainant however in all other aspects the complaint will be dealt with the same as any other complaint.

#### **6.2.7 Request for Internal Review of the outcome of the investigation**

Where a Complainant requests an internal review of the outcome of the investigation, the Complaint Review Panel will undertake the review in accordance with the guidelines set out in the Administrative Action Complaint Management Corporate Standard.

Where a Complainant requests a review of a decision made by Council's Complaint Review Panel, the Chief Executive Officer may refer the complaint to Council, to another Council Employee who has not been involved in earlier reviews of the complaint or to an external agency (such as the State Ombudsman).

Such requests for review may be classified as an Administrative Action Complaint in their own right as they are a complaint about an administrative action (the review of the outcome of the investigation of an Administrative Action Complaint) and are made by an Affected Person (or their Agent).

#### **6.2.8 Reporting on the Operation of the Complaints Management Process**

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 Administrative 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>6</sup>

In addition, *Section 306* of the *Local Government Regulation 2012* requires that "*internal reports are occasionally provided to senior management about the operation of the complaints management process*".

Council requires that reports containing the above information be prepared at least every six (6) months and provided to Senior Management and Councillors. Senior Management shall consist of the Chief Executive Officer and *Senior Executive Employees* (as defined under *Section 196(6)* of the *Local Government Act 2009*) and any other Council Employee as determined by the Chief Executive Officer.

#### **6.2.9 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 (by monitoring the time taken to resolve complaints for example). These mechanisms are set out in the Administrative Action Complaint Management Corporate Standard. Council requires that reports containing information on the outcomes of the mechanisms in place be prepared at least every six (6) months and provided to Senior Management and Councillors.

Where the need for a review of this Policy or the Administrative Action Complaint Management Corporate Standard is identified, a report shall be provided to Council with recommendations on the changes sought and the expected improvements.

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<sup>6</sup> *Section 187 Local Government Regulation 2012*



**7.0 ATTACHMENTS:**

Nil

**8.0 REVIEW TRIGGER:**

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

1. The related legislation/documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council.
3. Periodic Review – 3 years from date of adoption.

<b>TABLE OF AMENDMENTS</b>		
Originally Adopted	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/15/2347
Amendment 4	01/11/2016	G/16/2911 (FCGC/16/0102)
Amendment 5		

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**STUART RANDLE**  
**CHIEF EXECUTIVE OFFICER**