

# Administrative Actions Complaints Policy

## Policy Details

<b>Policy Category</b>	Statutory
<b>Date Adopted</b>	14 October 2020
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<b>Policy Owner</b>	Chief Executive Officer
<b>Contact Officer</b>	Mark Crawley
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## Supporting documentation

<b>Legislation</b>	<ul style="list-style-type: none"> <li>• <i>Local Government Act 2009</i></li> <li>• <i>Local Government Regulation 2012</i></li> <li>• <i>Information Privacy Act 2009</i></li> </ul>
<b>Policies</b>	<ul style="list-style-type: none"> <li>• Information Privacy Policy</li> <li>• Management of Fraud and Corruption Policy</li> <li>• Complaints about a Public Official Policy</li> <li>• Public Interest Disclosure Policy</li> <li>• Information Privacy Complaint Policy</li> <li>• Human Rights Policy</li> <li>• Code of Conduct for Employees</li> <li>• Administrative Action Complaints Procedure</li> </ul>
<b>Delegations</b>	<ul style="list-style-type: none"> <li>•</li> </ul>
<b>Forms</b>	<ul style="list-style-type: none"> <li>• Form 312 – Customer Feedback Form</li> </ul>
<b>Supporting Documents</b>	<ul style="list-style-type: none"> <li>• Administrative Actions Complaints Procedure</li> </ul>

## Version History:

Version	Adopted	Comment	eDRMS #
1	14/10/2020	Council Resolution No. 1020/010	

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## Policy Statement

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### WHAT IS AN ADMINISTRATIVE ACTION COMPLAINT

Pursuant to s268 of the LG Act an administrative action complaint is a complaint that:

- a) is about an administrative action of a local government, including the following, for example;
  - i) a decision, or 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.

Pursuant to s306(5) of the LG Reg; to remove any doubt, it is declared that, in deciding if a complaint is an administrative action complaint, it is irrelevant:

- a) how quickly the complaint was resolved;
- b) to which area of a local government the complaint was made; or
- c) whether or not the complaint was made anonymously.

### WHAT AN ADMINISTRATIVE ACTION COMPLAINT IS NOT

An administrative action complaint does not apply to:

- a) complaints about a councillor's conduct;
- b) disputes regarding infringement or fines;
- c) complaints about a neighbour, business or community group;
- d) requests for service or information;
- e) complaints made under the *Public Interest Disclosure Act 2010*;
- f) complaints of faulty infrastructure;
- g) complaint about an employees' conduct; or
- h) requests for service, which includes initial enquiries about;
  - i. barking or dogs at large;
  - ii. leaking water pipe;
  - iii. overgrown allotments;
  - iv. pot holes or other issues on roads;
  - v. or any other issue requiring Council services.

Where a complaint has been assessed as a request for service or information, the enquiry shall be forwarded to our Customer Services team to process.

### BENEFITS OF MANAGING COMPLAINTS ABOUT COUNCIL

Council is committed to accepting and processing complaints from the community and providing efficient and impartial review and investigation of complaints. By effectively identifying, receiving and managing complaints against Council steps can be taken to:

- a) improve products and services to the community;
- b) increase community confidence in Council's ability to make effective decisions;
- c) promote transparency and accountability;
- d) implement continual improvement strategies; and
- e) ensure Council employees are appropriately trained.

### WHO CAN MAKE AN ADMINISTRATIVE ACTION COMPLAINT?

As prescribed in s268(2)(b) of the LG Act, an administrative action complaint may only be made by an affected person.

A complaint may be submitted on behalf of an affected person; however, Council will only respond to the affected person. The affected person may provide a letter of

authority confirming they wish for an agent to act on their behalf, where this occurs, Council will correspond directly with the agent only.

### **MAKING AN ADMINISTRATIVE ACTION COMPLAINT**

Complaints about Council can be made to Council in a variety of ways including:

- a) In person at Council's administration building at 29-31 Haig Street, Normanton QLD;
- b) by telephone to 07) 4745 2200;
- c) by email to [council@carpentaria.qld.gov.au](mailto:council@carpentaria.qld.gov.au) ; or
- d) in writing, addressed to the CEO at PO Box 31, Normanton QLD 4890.

While it is not compulsory, to ensure Council can provide a fair and efficient response to complaints, complainants are encouraged to complete a Customer Feedback Form as this will assist in facilitating a more efficient complaint handling process.

As a minimum, all complaints should contain the following information:

- a) The nature of the complaint with as much detail as possible;
- b) Details of any loss or detriment the affected person has suffered;
- c) If the incident has been reported to another agency;
- d) If the incident has been previously reported to Council with the date and name of the receiving officer;
- e) The remedy the affected person is seeking;
- f) Any supporting information including details of anyone else who is able to support the complaint; and
- g) Contact details of the affected person.

### **ANONYMOUS COMPLAINTS**

An affected person may make an anonymous complaint, however, for Council to respond to, properly investigate and report on the outcome, contact details are required. Council may refuse to investigate anonymous complaints if insufficient information is provided.

### **RECORDING OF ADMINISTRATIVE ACTION COMPLAINTS**

All administrative action complaints will be recorded in Council's Administrative Action Complaint Register.

### **ASSESSMENT OF COMPLAINT CRITERIA**

On receipt of a complaint Council will assess if it is an administrative action complaint, considering clause 4 of this policy. Where the complaint is assessed as an administrative action complaint, Council will then determine the appropriate complexity according to the criteria outlined in Table 1.

**Table 1. Complaint Complexity Criteria**

Type of Complaint	Criteria	Decision Timeframe
Low complexity	Low complexity complaints require no investigation and can be easily addressed through the provision of information, or through negotiating a mutually satisfactory outcome.	10 business days from receipt of complaint
Medium complexity	Medium complexity complaints may require some research into the matter; it may also require some negotiation with the complainant or consultation with other areas of Council. Some investigation or fact finding will be required internally. Typically, medium complexity complaints contain a small number of issues.	30 business days from receipt of complaint
High complexity	High complexity complaints are matters where there are a large number of complaint issues; or where the complaint issues may refer to possible systemic concerns. These matters will typically involve complainants providing very detailed and lengthy background information that requires time to address. The matters can be of a complex nature which may involve working with a number of parties in order to reach an outcome. Formal investigations may be required, involving assessment of information, and may involve interviews or discussions with staff and other relevant persons, including external people or organisations.	45 business days from receipt of complaint

Where the relevant Director deems it necessary, Council may engage an external investigator to conduct the investigation. Where Council has made the decision to engage an external investigator there may be some delays due to availability and as such Council may require additional time to complete the investigation. Where this occurs, Council will notify the complainant in writing and advise the expected timeframe.

When assessing a complaint, consideration must also be given to the following the Council policies:

1. Management of Fraud and Corruption Policy;
2. Complaints about a Public Official Policy;
3. Public Interest Disclosure Policy;
4. Human Rights Policy
5. Information Privacy Policy; and
6. Information Privacy Complaint Policy.

### **FINES AND INFRINGEMENT NOTICES**

Where the matter is regarding a Council issued fine or infringement notice, the customer is required to contact the issuing department who will advise the process should they wish to dispute the fine or infringement.

Where the customer remains dissatisfied with the outcome of their dispute, they may then lodge an administrative complaint about the Council decision.

All fines and infringement notice disputes must first go through this dispute process before being escalated to an administrative action complaint.

## **REFUSAL TO INVESTIGATE A COMPLAINT**

Council reserves the right to refuse to investigate an administrative action complaint, or if already commenced an investigation, refuse to continue to investigate the administrative action complaint where it is reasonably believed that:

- a) The complaint is trivial or concerns a frivolous matter or was made vexatiously (as outlined in “Definitions”); or
- b) The complainant was found to not be an affected person and no written authority was received by Council from the actual affected person; or
- c) Council was unable to contact the complainant for further information or insufficient details were provided to Council to commence or continue an investigation; or
- d) It is impractical to investigate a matter due to the length of time that has passed since it occurred; or
- e) The complainant is pursuing the complaint through an alternate review process (e.g. disputing an infringement, liability claims, or where a previous enquiry/application is currently being processed and is within the set timeframe); or
- f) The complaint is made by a complainant that is the same or substantially the same as a previous complaint processed under this policy; or
- g) In situations of unreasonable complainant conduct as detailed later in this policy.

## **COMPLAINT REMEDY**

In resolving an administrative action complaint, Council may consider any of the following or a combination of the following remedy options:

- a) an explanation of how or why the matter occurred, and the action Council will take to prevent a reoccurrence;
- b) an admission of fault;
- c) a change of decision;
- d) the provision of a service;
- e) the provision of information;
- f) a correction of records;
- g) waiving of a penalty;
- h) a review or creation of a policy or procedure;
- i) employee training;
- j) and apology; or
- k) any other mutually agreeable, reasonable resolution.

The decision of which remedy, if any, is to be actioned is at the discretion of the relevant Director and should include a timeframe and a mechanism to report back once the recommendation is complete.

## **INTERNAL REVIEW OF COMPLAINT OUTCOME**

Where the complainant is not satisfied with the outcome of their complaint they may apply for an internal review. An internal review is a way for Council to review the complaint process and outcome. The internal review should be conducted to ensure Council’s policies and procedures have been followed and that the right outcome has been reached. An internal review is not a re-investigation into the original complaint.

Please refer to Council’s Administrative Action Complaints Procedure (“AAC Procedure”) for more information.

Where the complainant remains dissatisfied with the outcome of Council’s internal review, the complainant may refer the matter on to an external organisation such as the Queensland Ombudsman.

## REPORTING OF ADMINISTRATIVE ACTION COMPLAINTS

Pursuant to s187 of the LG Reg, Council's Annual Report will include statistical details of all administrative action complaints and will include:

- a) a statement about Council's commitment to dealing fairly with administrative action complaints; and
- b) a statement about how the Council has implemented its complaints management process, including an assessment of Council's performance in resolving complaints under this process.
- c) the number of administrative action complaints made to Council during the financial year;
- d) the number of administrative action complaints resolved by Council during the financial year;
- e) the number of administrative action complaints not resolved by Council during the financial year; and
- f) the number of administrative action complaints not resolved by Council that were made in a previous financial year.

## UNREASONABLE COMPLAINANT CONDUCT

It can be expected that a customer may be frustrated or angry when complaining to Council however where a complainant's conduct raises substantial health, safety or resource issues for Council or individual employees of Council, their conduct may be considered unreasonable. Examples of unreasonable conduct may include, but are not limited to:

- a) unreasonable persistence or contact regarding a complaint;
- b) unreasonable demands that are not proportionate to the complaint;
- c) unreasonable lack of cooperation; or
- d) unreasonable behaviour including aggression, violence or threats of violence.

A complainant's conduct will not preclude there being a valid complaint nor negate Council's obligation to properly process a complaint.

The decision that a complainant's conduct is unreasonable will only be made at an executive management level and will not be used as a quick solution to avoid a complainant's contact. Where the conduct is considered unreasonable, the following steps shall be taken:

1. In the first instance, Council will advise the complainant in writing of:
  - a) the conduct that is considered unreasonable;
  - b) what conduct is expected moving forward; and
  - c) that if the unreasonable conduct continues, Council will restrict the complainant's access to our services.
2. Where this action does not result in cessation of the unreasonable conduct, Council will advise the complainant in writing that we will be restricting their access to our services and what is expected from the complainant moving forward.
3. Where the unreasonable conduct continues Council may consider refusing to respond to any future communication from the complainant. (This step will only be considered in extreme cases of unreasonable complainant conduct and with the approval of the Chief Executive Officer).

Unreasonable complainant conduct will generally be managed by restricting the complainant's access to our services, which may include:

- a) limiting the complainants contact to one specific employee in Council;
- b) restricting the subject matter that Council will respond to; or
- c) restricting the way in which the complainant can communicate with Council.

Before restricting a complainant's access to our services the executive manager shall take into consideration the complainant's personal circumstances, including:

- a) level of competency; and
- b) their access to communication methods.

## PRIVACY AND CONFIDENTIALITY

Council is committed to the privacy principles under the Information Privacy Act 2009. Council will endeavour to ensure that the details of the complaint, the complainant and the investigation and related decisions are kept confidential.

## COMMUNICATION AND DISTRIBUTION

Council will make available to the public the AAC Policy and AAC Procedure on our website at [www.carpentaria.qld.gov.au](http://www.carpentaria.qld.gov.au)

All Council employees will be advised of Council's administrative action complaints process at the time of their pre-employment induction and at their refresher inductions.

Council employees involved in the administrative action complaints process may have a key performance indicator included in the position description which will be evaluated on an annual basis.

All Council employees involved in the administrative action complaint process will be provided with regular and specific training on the entire complaints management process and will be recorded on Council's Training Matrix.

Supervisors will ensure the policy is distributed to employees.

## VARIATIONS

This policy will be reviewed and updated on an annual basis giving consideration to Council's performance in resolving complaints under this process. The annual review will also focus on any improvement measures Council may adopt to reduce future AAC's.

## BREACH OF POLICY

Where Council reasonably believes an employee has breached this policy, the matter will be dealt with under the Code of Conduct for Employees.

## DEFINITIONS

**Affected Person** – is a person who is apparently directly affected by an administrative action of a local government.

**CEO** – is the Chief Executive Officer or their delegate.

**Complainant** – is the affected person or affected persons authorised agent who has lodged the complaint with Council.

**Executive Management Level** – includes the relevant director or chief executive officer.

**Frivolous Complaint** – is a complaint that has no serious purpose or value. It may have little merit and be trivial.

**Receiving Officer** – is a Council employee to whom a complainant has lodged a complaint with.

**Vexatious Complaint** – is a complaint reasonably considered to be;

- i) a complaint without merit and is made with the intention of causing inconvenience, annoyance or expense to Council; or
- ii) a complaint made maliciously to damage a person's career or reputation or reputation of Council; or
- iii) a collusion between more than one person or complainant in an attempt to discredit or take retribution against an Officer, Councillor or Council.

Adopted by Council 14 October 2020 by Resolution 1020/010.



**Mark Crawley**  
**Chief Executive Officer**