

# ADMINISTRATIVE ACTION COMPLAINT PROCEDURE



## 1 Scope

This procedure applies to the management of all administrative action complaints received by Rockhampton Regional Council.

## 2 Purpose

The purpose of this procedure is to:

- (a) Satisfy legislative obligations by establishing a complaints management process for resolving administrative action complaints; and
- (b) Outline the method for handling and resolving complaints made by an affected person.

## 3 Related Documents

### 3.1 Primary

Complaints Management Policy

### 3.2 Secondary

*Crime and Corruption Act 2001*

*Human Rights Act 2019*

*Industrial Relations Act 2016*

*Information Privacy Act 2009*

*Integrity Act 2009*

*Local Government Act 2009*

*Local Government Regulation 2012*

*Ombudsman Act 2001*

*Public Interest Disclosure Act 2010*

Actionable Communications Whole of Council Work Instruction

Code of Conduct

Code of Conduct for Councillors in Queensland

Corrupt Conduct Policy and Procedure

Customer Service Charter

Investigation Procedure

Privacy Policy

Public Interest Disclosure Policy and Procedure

Right to Information Policy

#### LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 1 of 9

## 4 Definitions

To assist in interpretation, the following definitions apply:

AAC	<p>Administrative Action Complaint</p> <p>An expression of dissatisfaction by a person who is directly affected by an administrative action of Council, including a failure to take action.</p> <p>An administrative action complaint can be in relation to: the lack of timeliness; lack of quality; lack of communication; safety/risk concern; policy or procedure not followed; or unsatisfactory decision.</p>
Administrative Action	As defined in the <i>Local Government Act 2009</i> , including the following, for example a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision; an act, or a failure to do an act; the formulation of a proposal or intention; or the making of a recommendation.
Affected Person	As defined in the <i>Local Government Act 2009</i> , a person who is apparently directly affected by an administrative action of a local government.
CEO	<p>Chief Executive Officer</p> <p>A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i>. This includes a person acting in this position.</p>
Complainant	Person, organisation or their representative making a complaint.
Complaint	An expression of dissatisfaction by a customer regarding the unsatisfactory delivery of a product or service offered by Council or the unsatisfactory conduct of Council employees, Councillors, contractors and volunteers.
Council	Rockhampton Regional Council
Council Service	Refers to basic services that customers expect the Council to provide, such as sanitation, water supply, roads etc. For the purpose of this procedure, a Council service does not include internal operational matters.
Customer	Individuals and organisations to whom Council provides services, including ratepayers, residents, businesses, and visitors to the Region.
ECM	Enterprise Content Management. Council's corporate recordkeeping system.
Employee	<p>Local government employee:</p> <p>(a) The CEO; or</p> <p>(b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i>.</p>
GM	Employee appointed to a position with a Corporate Band 2 delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register.
Grievance	A grievance is any type of problem, concern or complaint relating to an employee's work or the work environment.
Leadership Team	CEO, Deputy Chief Executive Officer and general managers, executive managers and Chief Financial Officer.
Manager	Employee appointed to a position delegated a corporate band 3 delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register..
Pathway	Pathway Request Module. Council's customer request/enquiry and complaints system.

### LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 2 of 9

Public Interest Disclosure	As defined in section 11 of the <i>Public Interest Disclosure Act 2010</i> , all information and help given by the discloser to a proper authority about a public interest matter referred to, pursuant to sections 12 and 13 of the <i>Public Interest Disclosure Act 2010</i> .
QCAT	Queensland Civil and Administrative Tribunal
Region	Rockhampton Regional Area defined by the Local Government Areas of Queensland.
Request for Information	An enquiry or request for information about Council services, policies or procedures.
Request for Service	A customer request made to Council to take action to satisfy the needs of the Customer, for example request to fill a pothole or collect a stray dog.

## 5 Procedure

### 5.1 Administrative Action Complaints

An AAC is a complaint about an administrative action of Council made by an affected person. For a complaint to be an AAC, the complainant must be an affected person. An affected person is someone who is apparently directly affected by the administrative action.

An administrative action includes the following, for example a decision, a failure to make a decision, including a failure to provide a written statement of reasons for a decision, an act, a failure to do an act, the formulation of a proposal or intention or the making of a recommendation.

Examples of an AAC are as follows:

- (a) Complaints about Council's services, for example a repeated complaint by an affected person about the general quality of park maintenance;
- (b) Failure to take action within a satisfactory timeframe after a request for service has been received to fix a pothole in the complainant's street; and
- (c) Complaint from a customer whose private information has been inappropriately disclosed (breach of privacy).

Examples of what is **not** an AAC:

- (a) Request for information;
- (b) Request for service;
- (c) Suggestions;
- (d) Enquiries;
- (e) Petitions;
- (f) Comments submitted during formal consultation or negotiation processes;
- (g) Councillor conduct;
- (h) Public interest disclosure;
- (i) A grievance about another Council employee; and
- (j) A complaint from someone who is not an affected person.

#### LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 3 of 9

## 5.2 Making an Administrative Action Complaint

An affected person may make an AAC in any of the following ways however Council's preferred method is in writing. Council does not consider comments published on social media to be complaints:

- (a) Telephone Council on 07 4932 9000 or 1300 225 577;
- (b) Visit a Customer Service Centre in Rockhampton, Gracemere or Mount Morgan;
- (c) Online [www.rockhamptonregion.qld.gov.au](http://www.rockhamptonregion.qld.gov.au);
- (d) Email Council [enquiries@rrc.qld.gov.au](mailto:enquiries@rrc.qld.gov.au);
- (e) Write to Council PO Box 1860, Rockhampton QLD, 4700; or
- (f) Fax Council 07 4936 8862 or 1300 225 579.

### 5.2.1 Assistance

If this information is not in the complainant's language, assistance is available by calling the National Translating and Interpreting Service (NTIS) on 131 450. The complainant can advise the NTIS of their preferred language and ask to speak with the Rockhampton Regional Council Customer Service on 1300 225 577 or 4932 9000.

If assistance is required because of a hearing or speech impairment, the complainant may contact the National Relay Service on 133 677. If the complainant can speak and hear but sometimes people have trouble understanding them, the complainant may call the Relay Service on 1300 555 727.

### 5.2.2 Anonymous Complaints

Council may accept anonymous AACs however sufficient information is required to review a matter to ensure the matter can be addressed effectively.

## 5.3 Acknowledgement

AACs received and resolved at the first point of contact may not require a formal acknowledgment. Where appropriate, AACs will be acknowledged in accordance with Council's Actionable Communications Whole of Council Work Instruction and Customer Service Charter. Written acknowledgment of an AAC will occur within 10 working days which will include a summary of the issues identified, possible outcomes, information regarding the complaints process, timeframes as well as applicable contact details.

The affected person will be kept informed as to the progress of their complaint throughout all steps.

## 5.4 Recording

Employees dealing with AACs at either the first contact or at any stage of the process must keep full and accurate records in accordance with the *Local Government Act 2009* and Council's policy documents. An employee receiving an AAC must enter the details into Pathway in accordance with the Actionable Communications Whole of Council Work Instruction. If an AAC progresses to Step 2 or 3 (paragraph 5.5.2 and 5.5.3) relevant documents are also required to be entered into ECM.

## 5.5 Administrative Action Complaints Process

The AACs process comprises of four steps:

- 1 Initial consultation;
- 2 Preliminary review;
- 3 Final review; and
- 4 External review options.

#### LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 4 of 9

### 5.5.1 Step 1 – Initial Consultation

Wherever possible, an AAC will be resolved without the need for formal investigation, preference should be given to less formal modes of resolution which may enable a complaint to be resolved promptly and amicably. An example is when a complainant phones in and the contact officer and the complainant work through the issues to obtain a mutually satisfactory outcome.

### 5.5.2 Step 2 – Preliminary Review

If the complainant remains dissatisfied, they may request a preliminary review to be undertaken by the relevant section manager. The manager will determine if the AAC falls within the following assessment criteria and determines if the complaint will be investigated.

AACs will require an initial assessment of the complaint in terms of criteria such as severity, safety implications, complexity, impact and the need for and possibility of immediate action.

In the majority of cases, every complaint will be assessed and investigated unless it comes within one of the following assessment criteria:

- (a) It is considered to be frivolous or vexatious, i.e. lacks substance or credibility, is an abuse of the complaints management process, is not made in good faith, or attempts to reopen an issue that has been determined by raising the same/similar issue/s again; such that an investigation would be unnecessary, unjustifiable or an inappropriate use of resources.
- (b) It is made using rude or uncontrolled language, or where the complainant is physically harassing or stalking an employee. These complaints may not be answered or may be returned.
- (c) It is made 12 months after the matter arose unless there was a relevant matter which was not within the means of knowledge of the complainant within 12 months after the matter arose. Approval may be granted to extend time up to 12 months after the complainant became aware of the relevant matter.
- (d) The complaint is made anonymously and it is determined there is insufficient information to investigate.
- (e) It is determined the complaint is complex and the complainant refuses to put it in writing.
- (f) The complainant is pursuing the complaint through an alternative review process, or it has already been reviewed through an alternative review process, for example through QCAT or the Ombudsman's Office.
- (g) It is a request for a review of an AAC which is subject to legislative or adopted policy timeframes or is subject to an agreed service level framework and the legislative or adopted policy timeframes have not expired or all actions within the agreed service level framework have not been exhausted.
- (h) Where the complainant fails to provide sufficient information or in some way inhibits the investigation, for example fails to respond to requests for information within a reasonable time period or refuses to give the necessary access to a property.

The assessment against the criteria must be completed within seven working days. In certain instances Council may request the complainant to supply further details via a statutory declaration.

If an AAC does satisfy one or more of the above criteria, only a manager can approve to not proceed to a preliminary review once consultation with the Workforce Relations and Ethics Unit has occurred. The complainant will be advised in 10 working days from the decision to not investigate the complaint.

If the AAC is to progress to a preliminary review, the manager may carry out the review, refer to another appropriate employee within the relevant section or refer to the Workforce Relations and Ethics Unit.

LEGAL AND GOVERNANCE USE ONLY			
Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 5 of 9

Preliminary reviews should be completed within 30 working days. It is the responsibility of the employee undertaking the review to advise all parties should this timeframe require extension. The employee undertaking the preliminary review will:

- (a) Ensure the AAC is recorded appropriately and continue to maintain records as the investigation progresses.
- (b) Acknowledge the request for preliminary review of the AAC and contact the complainant to:
  - (i) Seek any further clarification on the AAC and the outcome the complainant is requesting;
  - (ii) Allow the opportunity to provide further relevant information;
  - (iii) Attempt to reach a mutually acceptable resolution, if appropriate; and
  - (iv) Advise the expected timeframe for reviewing the AAC.
- (c) Assess and investigate the AAC in consultation; as necessary or appropriate; with the complainant, management and specialist officers.
- (d) Make a recommended decision on the outcome and, if required an appropriate remedy.
- (e) Provide the decision to the relevant manager for review and approval.
- (f) Advise the complainant in writing of the outcome, which will include the reasons for the decision.
- (g) If the AAC is accepted, advise of any remedy or redress, the timeframe which it will be provided and detail any other changes that may occur as a result of the AAC.
- (h) If the AAC is not accepted advise of the opportunity for a final review.
- (i) Ensure Pathway or ECM is updated with outcomes and implement any required actions.

#### 5.5.2.1 Exemptions to Step 2 – Preliminary Review

An AAC may be immediately escalated if the CEO or relevant GM determines that a matter, because of the issues it raises, is unusually complex or for any other reason deemed relevant or appropriate can be immediately escalated to the final review stage.

#### 5.5.3 Step 3 – Final Review

If the complainant remains dissatisfied they may request a final review to be undertaken by the Workforce Relations and Ethics Unit, in conjunction with the CEO or relevant GM or as determined by the CEO. The responsible employee undertaking the final review will:

- (a) Ensure the AAC is recorded appropriately and continue to maintain records as the investigation progresses.
- (b) Acknowledge the request for a final review of the AAC and contact the complainant to:
  - (i) Seek any further clarification on the AAC and the outcome the complainant is requesting;
  - (ii) Allow the opportunity to provide further relevant information;
  - (iii) Attempt to reach a mutually acceptable resolution, if appropriate; and
  - (iv) Advise the expected timeframe for reviewing the AAC.
- (c) Undertake an investigation in accordance with Council's Investigation Procedure. The Workforce Relations and Ethics Unit has a maximum of 45 working days to investigate and make recommendations. In the case of a technical or complex matter, this timeframe may be extended by the CEO or relevant GM.

#### LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 6 of 9

- (d) Provides the Investigation Report or Memorandum and recommended action/s to the CEO or relevant GM for approval.
- (e) Advise the complainant in writing of the outcome, with a statement of reasons which should include:
  - (i) Relevant legislation, local laws and policy documents;
  - (ii) Correspondence and other communication relating to the complaint, where applicable;
  - (iii) Evidence and other material available to the investigating officer, where applicable;
  - (iv) Findings of fact;
  - (v) Any decisions made by Council in regards to the complaint; and
  - (vi) Reasons for Council's decision.
- (f) If the AAC is accepted, advise of any remedy or redress, the timeframe which it will be provided and detail any other changes that may occur as a result of the AAC.
- (g) If the AAC is not accepted advise of external review options.
- (h) Ensure appropriate records are updated with outcomes and implement any required actions.

#### 5.5.4 Step 4 – External Review Options

If an AAC is not accepted and all internal Council review options have been exhausted, the complainant will be advised of external review options.

External review options may be one or more of the following, subject to jurisdiction:

- (a) Queensland Ombudsman;
- (b) Office of Information Commissioner for privacy complaints;
- (c) QCAT ; and/or
- (d) Courts.

#### 5.6 Remedies

Where AACs are found to be justified, Council will, where practicable, remedy the situation in a manner which is consistent and fair for both Council and complainant/s. Possible remedial actions may include:

- (a) An explanation for the action in question;
- (b) An admission of fault;
- (c) An apology;
- (d) Cancellation or amendment of the decision;
- (e) Rectification, including repairing or replacing the matter in dispute;
- (f) Revision of relevant policy, procedure or practice;
- (g) Reimbursement of costs incurred as a result of the action in question;
- (h) Financial compensation, including an ex gratia payment; and/or
- (i) Waiver of debt.

More than one remedy may be applied if the circumstances justify that course of action.

LEGAL AND GOVERNANCE USE ONLY			
Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 7 of 9

## 5.7 Confidentiality and Privacy

A complainant's details should remain confidential however, employees should advise a complainant of the possibility that their identity may become obvious as a result of an investigation process or subsequent enforcement action. Council's Privacy Policy provides advice on handling the disclosure of personal information.

Council may be obliged to disclose a person's personal details to an external body for investigation or under a legal or statutory process.

## 5.8 Workforce Relations and Ethics Unit Responsibilities

Council's Workforce Relations and Ethics Unit is responsible for:

- (a) Investigating all AACs referred by the CEO, GM and external agencies such as the Queensland Ombudsman;
- (b) Liaising with state government agencies as required;
- (c) Administering the AAC process, providing formal and statistical reports, recommendations and associated administrative tasks;
- (d) Providing advice to Council departments investigating AACs;
- (e) Facilitating educational awareness programs in relation to AACs and applicable procedures;
- (f) Being the central registrar for Council's complaint registers; and
- (g) Evaluating the effectiveness of the AAC management process.

Evaluation and review of the AAC process may include:

- (a) Analysis of AACs including timeliness of responses, identifying systematic problems, correcting process deficiencies and assessing opportunities for improvement and trends to help eliminate underlying causes of AACs.
- (b) Survey of reviewing officers and complainants to determine the level of satisfaction with the process.
- (c) Evaluating the AAC process's continuing suitability, adequacy, effectiveness and efficiency.
- (d) Identifying and addressing instances of nonconformity with health, safety, environmental, customer, regulatory and other legal requirements.

An operational report is to be provided to LT, at least annually, for consideration and input. This report is separate to the statutory information required under section 187 of the *Local Government Regulation 2012* which is included in Council's Annual Report. Operational reports may include information on:

- (a) Internal factors, for example changes in policy, objectives, organisational structure, training needs and available resources;
- (b) External factors, for example legislative changes;
- (c) Overall performance of the AAC procedure and work instruction;
- (d) Outcomes of consultation with relevant Council employees and customers;
- (e) Individual or total complaints data, for example the way complaints were received, date received/finalised, topic and outcome;
- (f) Significant, emerging or recurring issues;
- (g) The status of corrective and preventive action;
- (h) Identify, analyse and respond to complaint trends; and
- (i) Recommendations for improving the effectiveness and efficiency of the AAC process.

### LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 8 of 9



## 6 Review Timelines

This procedure is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the Executive Manager Workforce and Governance.

## 7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Executive Manager Workforce and Governance
Policy Owner	Executive Manager Workforce and Governance
Policy Quality Control	Legal and Governance



### LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	Adopted, 12 December 2017	Department:	Office of the CEO
Version:	2	Section:	Workforce and Governance
Reviewed Date:	6 August 2020	Page No:	Page 9 of 9