

COMPLAINTS MANAGEMENT POLICY (STATUTORY POLICY)

1. Scope

This policy applies to the management of all complaints regarding Rockhampton Regional Council actions, services and employees including Councillors, contractors and volunteers.

2. Purpose

To:

- (a) Satisfy legislative obligations by establishing a complaints management process for resolving complaints;
- (b) Establish Council's commitment to ethically, fairly, transparently and compliantly manage and resolve all complaints; and
- (c) Provide a single framework for identifying, assessing, recording, managing and resolving complaints.

3. Related Documents

Primary

Local Government Act 2009

Secondary

Age Discrimination Act 2004 (Cwth)

Anti-Discrimination Act 1991

Australian Human Rights Commission Act 1986 (Cwth)

Crime and Corruption Act 2001

Criminal Code Act 1899

Disability Discrimination Act 1992 (Cwth)

Industrial Relations Act 2016

Information Privacy Act 2009

Integrity Act 2009

Local Government Regulation 2012

Ombudsman Act 2001

Public Interest Disclosure Act 2010

Public Sector Ethics Act 1994

Racial Discrimination Act 1975 (Cwth)

Right to Information Act 2009

Sex Discrimination Act 1984 (Cwth)

Work Health and Safety Act 2011

Workplace Gender Equality Act 2012 (Cwth)

and associated Regulations and Codes of Practice

Actionable Communications Whole of Council Work Instruction

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Administrative Action Complaints Procedure
 Code of Conduct
 Corrupt Conduct Policy
 Corrupt Conduct Procedure
 Councillor Code of Conduct Policy
 Discipline Procedure
 Fraud and Corruption Control Plan
 Fraud and Corruption Control Policy
 Grievance Procedure
 Industrial Instruments
 Investigation Procedure
 Privacy Policy
 Public Interest Disclosure Policy
 Public Interest Disclosure Procedure
 Right to Information Policy
 Workplace Bullying, Discrimination and Sexual Harassment Policy

4. Definitions

To assist in interpretation, the following definitions apply:

Administrative Action	As per the <i>Local Government Act 2009</i> , includes 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.
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 an unsatisfactory decision.</p>
Affected Person	As per 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>
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.
Complainant	The person, organisation or their representative making a complaint.
Contractor	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by

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	law.
Corrupt Conduct	<p>As per the <i>Crime and Corruption Act 2001</i>, conduct of a person (regardless of whether the person holds or held an appointment) that fulfils each of the following elements:</p> <p>(a) Adversely affects, or could adversely affect, directly or indirectly, the performance of functions, or the exercise of powers of a Unit of Public Administration (UPA) or a person holding an appointment in a UPA;</p> <p>(b) Results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that is:</p> <ul style="list-style-type: none"> (i) not honest or is not impartial; or (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and <p>(c) Is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and</p> <p>(d) Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</p>
Council	Rockhampton Regional Council
Council Service	Refers to basic services customers expect the Council to provide, such as sanitation, water supply, roads etc. For the purpose of this policy, a Council service does not include internal operational matters.
Councillor/s	The Mayor and Councillors of Rockhampton Regional Council, within the meaning of the <i>Local Government Act 2009</i> .
Councillor Misconduct	<p>As per the <i>Local Government Act 2009</i>:</p> <p>Conduct, or a conspiracy or attempt to engage in conduct, of or by a Councillor:</p> <p>(a) That adversely affects, or could adversely affect, (either directly or indirectly) the honest and impartial performance of the Councillor's responsibilities or exercise of the Councillor's powers; or</p> <p>(b) That is or involves:</p> <ul style="list-style-type: none"> (i) The performance of the Councillor's responsibilities, or the exercise of the Councillor's powers, in a way that is not honest or is not impartial; or (ii) A breach of the trust placed in the Councillor; or (iii) A misuse of information or material acquired in or in connection with the performance of the Councillor's responsibilities, whether the misuse is for the benefit of the Councillor or someone else; or (iv) A failure by the Councillor to comply with a direction to

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	<p>leave a meeting of the local government or its committees by the chairperson presiding at the meeting; or</p> <p>(v) A refusal by the Councillor to comply with a direction or order of the regional conduct review panel or tribunal about the Councillor; or</p> <p>(c) That is a repeat of inappropriate conduct that the Mayor or the department's chief executive has ordered to be referred to the regional conduct review panel under section 181(2) of the Act; or</p> <p>(d) That contravenes section 171(3) or 173(4) of the Act.</p>
Duty of Care	An obligation recognised by law to avoid conduct fraught with unreasonable risk of danger to others and to the organisation, in particular to reduce any vicarious liability risks.
Employee/s	Local government employee: (a) the Chief Executive Officer; or (b) a person holding an appointment under section 196 of the Local Government Act 2009.
Frivolous Complaint	A complaint which is considered to be: (a) made without evidence to cause annoyance; (b) regularly focused on a trivial matter to the extent which is out of proportion to its significance and the complainant continues to focus on this matter; (c) continually lodged to invoke a desired response; or (d) on a matter which the complainant persists in pursuing despite Council's reasonable efforts to help them specify their concerns, and/or where the concerns identified are not with the realm of Council to investigate, and/or where Council has advised the complainant that the matter has been investigated and resolved.
Industrial Instruments	Relevant Certified Agreement, Award and/or Contract of Employment.
Inappropriate Conduct	As per the <i>Local Government Act 2009</i> : Conduct that is not appropriate conduct for a representative of a local government, but is not misconduct including for example: (a) a Councillor failing to comply with the local government's procedures; or (b) a Councillor behaving in an offensive or disorderly way in a meeting of the local government or any of its committees.
Industrial Relations Matters	Disputes between an employee and the employer in respect to Council's certified agreements and relevant industrial instruments and matters that relate.
Information	Information in any number of forms including letters, reports/documents, facsimiles, attachments, tapes, emails, electronic media, and/or other forms of information including discussions during meetings.
Investigations Unit	Industrial Relations and Investigations Unit, Workforce and

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Maladministration	As per the <i>Public Interest Disclosure Act 2010</i> : An administrative action that was: (a) taken contrary to law; or (b) unreasonable, unjust, oppressive, or improperly discriminatory; or (c) in accordance with a rule of law or a provision of an Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances; (d) taken – i. for an improper purpose; or ii. on irrelevant grounds; or iii. having regard to irrelevant considerations; or (e) an action for which reasons should have been given, but were not given; or (f) based wholly or partly on a mistake of law or fact; or (g) wrong.
Public Interest Disclosure	As per 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> .
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.
Vexatious Complaint	A complaint which is considered to be: (a) made maliciously to damage a person's career or reputation, or the reputation of Council; (b) a threat of violence against others or property; or (c) collusion between others, in an effort to discredit others or take retribution or to have an employee removed from the workplace.
Volunteer	Any person, who of their own free will, offers to undertake un-paid work for Council and is accepted as a volunteer by the CEO and/or his authorised delegates.

5. Policy Statement

Council is committed to providing a quality level of customer service that does not attract complaints. Council acknowledges the right of a person to lodge a complaint and is committed to upholding its duty of care by aiming to provide an effective resolution to all complaints received.

The objectives of this policy are to:

- (a) Provide a contemporary framework for the process of identifying, assessing, recording, managing and resolving complaints;
- (b) Ensure the complaints management process is statutory compliant, ethical, fair, objective, transparent and consistent;

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- (c) Offer a complaints regime that facilitates continuous improvement of Council, its overall service delivery, systems, processes and employees;
- (d) Ensure complaints are responded to in a timely manner; and
- (e) Inform complainants of the redress available to them if they are not satisfied with a particular outcome, decision or action that directly affects them.

Council is committed to the following complaint management principles:

- (a) Accessibility – Information about Council's complaints process is readily available on Council's website and complaints can be lodged in various forms (fax, email, verbally).
- (b) Client Focus – Complaints will be taken seriously and all complainants will be treated with respect, courtesy, dignity and fairness.
- (c) Confidentiality – Complaints will be treated strictly confidentially and managed in accordance with information management policies and relevant legislation.
- (d) Communication – All complaints will be managed transparently and reasons for decisions and/or actions will be provided in a timely manner.
- (e) Continuous Improvement – Council recognises the opportunity for improvement and commits to continuously enhancing its services, systems and employees.
- (f) Fair and Objective – Complaints received by Council will be reviewed on their merits and addressed in an equitable and impartial manner adhering to the principles of natural justice and procedural fairness.
- (g) Responsiveness – Council is committed to acknowledging and responding to the complaint, keeping the complainant informed as to the progress of the complaint and advising the complainant of the outcome and reasons for Council's decision.

5.1 Assessment of the 'Complaint'

A complaint may be received via any communication method, such as email, fax, letter, Council's website, verbally (in person, by telephone) or any other communication method. The preferred method for receipt of a complaint is in writing, however Council does not consider comments published on social media to be complaints.

Once information is received, it will be initially assessed to establish the information is a complaint, as defined; and to determine the complaint category. Not all complaints will require a formal investigation.

Categorisation of the complaint will determine the applicable procedure to apply, including the management level to consult and liaise with, in regards to the complaint.

Ideally every effort should be made to address the complaint at the first point of contact, however if the complaint is of a serious nature, or there are possible multiple categorisations or the categorisation is unclear; the Investigations Unit will assess and categorise the complaint.

The following is a list of complaint categories Council may receive:

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5.1.1 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.

AACs may take many forms, for example:

- (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;
- (c) Complaint from a customer whose private information has been inappropriately disclosed (breach of privacy);
- (d) Complaint from an anonymous person, if sufficient information is provided to investigate the complaint; and
- (e) Referrals from outside agencies, for example, the Queensland Ombudsman.

5.1.2 Complaints other than Administrative Action Complaints

If it has been determined, that the definition of a complaint has been satisfied and the complaint is not an AAC, then it will generally fall into one of the following categories:

5.1.2.1 Complaints about Councillors, including the Mayor

Complaints about the conduct of a Councillor will be directed to the CEO who will assess and manage in accordance with sections 176-182 of the *Local Government Act 2009*.

The CEO or Mayor, if appropriate, may refer the complaint to the Investigations Unit for investigation or assistance. The CEO or Mayor, if appropriate, is responsible for completing or delegating any follow up actions arising from the investigation.

5.1.2.2 Complaints about the Chief Executive Officer

Complaints about the conduct of the CEO will be directed to the Manager Workforce and Strategy or delegate who will initially assess and manage. The Manager Workforce and Strategy will liaise with the Mayor as required.

5.1.2.3 Public Interest Disclosure

A complaint received regarding a public interest disclosure, which identifies or alleges cases of; maladministration, corrupt conduct or the misuse of public resources or contraventions giving rise to dangers to public health and safety, the environment or to persons with disabilities, will be administered in accordance with the *Public Interest Disclosure Act 2010* and Council's Public Interest Disclosure Policy and Procedure.

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5.1.2.4 Corrupt Conduct

A complaint, information or matter that involves or may involve suspected corrupt conduct will be assessed and managed in accordance with the *Crime and Corruption Act 2001* and Council's Reporting Corrupt Conduct Policy and Procedure.

The Manager Workforce and Strategy is the CEO nominated person, under section 48A of the *Crime and Corruption Act 2001*, to manage complaints against the CEO that are reasonably suspected to involve corrupt conduct.

5.1.2.5 Internal Complaint or Grievance

An internal complaint or grievance is any type of problem, concern or complaint relating to an employee's work or the work environment. A grievance can be about any act, behaviour, omission, situation or decision affecting an employee, which the employee thinks is unfair or unjustified.

Although not an exhaustive list, a grievance may relate to aspects of employment, such as:

- (a) Workplace bullying including sexual harassment;
- (b) Workplace discrimination;
- (c) Unreasonable or lack of management action; and
- (d) Breaches of Council policy documents and legislation, for example Code of Conduct.

A complaint will not be deemed a grievance if it relates to reasonable management action, such as, but not limited to:

- (a) Setting and managing performance goals and standards including dealing with unsatisfactory performance;
- (b) Allocating work or work location in a transparent manner;
- (c) Implementing organisational changes or restructuring; or
- (d) Resolution for complaints or disputes pertaining to industrial relation matters.

Complaints that are considered a grievance will be administered in accordance with Council's Grievance and Investigation Procedures.

Council's Certified Agreement Dispute Resolution Procedure will govern complaints relating to employee industrial relation matters.

5.1.2.6 Other Matters Governed by a Statutory Review Process

A complaint that has a separate statutory review process will need to be directed to the relevant review process, in the first instance. For example:

- (a) planning issues that can be addressed through the *Planning Act 2016*;

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- (b) competitive neutrality issues that can be addressed through the *Local Government Act 2009*;
- (c) disputes regarding administrative decisions that can be addressed through the Queensland Civil and Administrative Tribunal; or
- (d) disputes regarding infringement notices which can be reviewed through the Magistrate's Court.

5.1.2.7 Other

Any other type of complaint that is not within the scope of an AAC or categorised within this policy will be directed to the CEO, relevant general manager and/or Investigations Unit for assessment and review.

5.2 Frivolous and/or Vexatious Complaints

Frivolous and vexatious complaints consume considerable time, resources and finances with no benefit to the community or Council. Any complaint deemed to satisfy the criteria for this complaint category will be managed in accordance with Council's Investigation Procedure.

Some examples include:

- (a) Matters either deemed to be minor, in relation to higher priorities, that are not likely to cause threat to public safety or financial loss to Council or others, for example a complaint about a person illegally parked may not be given priority unless the situation was considered dangerous.
- (b) Follow up calls about minor matters.
- (c) Rhetorical comments/questions, for example 'can't anyone at Council add up?'
- (d) A complaint from a complainant who has consistently, over time, contacted Council about minor or the same matter/s, judged not to be a priority, resulting in unnecessary and costly consumption of Council's resources, unless the subject matter is deemed to warrant investigation.
- (e) A complainant who refuses to accept the decision of an authorised officer.
- (f) A complainant who unreasonably refuses to deal with the officer appointed to undertake the review.
- (g) A complainant who has a history of:
 - (i) Making complaints and review requests about their issue/related issues and contacting or cc'ing other government agencies, Members of Parliament, Ministers or other people and organisations.
 - (ii) Complaining about Council's or an officer's integrity or competence or taking their complaint to other forums alleging bias or corruption, because they are dissatisfied with the decision.
 - (iii) Giving forceful instructions about how their complaint should be dealt with and/or by whom.
 - (iv) Making unreasonable demands that organisational time and resources be spent dealing with their complaint.

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5.3 Communications with Complainant/s

Anonymous complaints will be accepted and assessed. Council prefers a complainant to provide a name and contact details as the Investigations Unit may, in some cases, invite a complainant to provide further information to assist in fully understanding the concerns, the issue/s to be investigated (if an investigation is to be undertaken) and the outcome or remedy sought in accordance with Council's Investigation Procedure.

If a person requires assistance to lodge a complaint, assistance will be provided.

Council is committed to transparency; the Investigations Unit will, in a timely manner, acknowledge receipt of a complaint, keep the complainant appropriately informed of the progress of the complaint and/or investigation and outcome of the decision.

5.4 Review

A complainant will be advised of review options when notified of the outcome of their complaint. Review options may include an internal review on the merits of the complaint, undertaken at the CEO's discretion, and/or an external review by an external agency such as the Queensland Ombudsman.

5.5 Reporting on Administrative Action Complaints

Council will maintain a record of all AACs in a secured register. The Investigations Unit will report on AACs in accordance with Council's Administrative Action Complaint Procedure and State legislation.

5.6 Investigations Unit Responsibilities

Council's Investigation Unit is responsible for:

- (a) Assessing the complaint category and actioning accordingly;
- (b) Conducting investigations into complaints deemed to require investigation;
- (c) Investigating complaints referred by the CEO, general manager or external agencies such as the Queensland Ombudsman;
- (d) Providing progress reports to senior management, identifying and advising of potential risks requiring immediate rectification;
- (e) Liaising with state government agencies as required;
- (f) Administering the complaints management process, providing formal and statistical reports, recommendations and associated administrative tasks;
- (g) Providing advice to Council departments investigating complaints;
- (h) Facilitating educational awareness programs in relation to the Complaint Management Policy and applicable procedures;
- (i) Being the central registrar for Council's complaint registers; and
- (j) Reviewing and reporting to the CEO, senior management and Council as required on complaints.

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6. Review Timelines:

This policy is reviewed when any of the following occur:

- (a) As required by legislation;
- (b) The related information is amended or replaced; or
- (c) Other circumstances as determined from time to time by the Council.

7. Responsibilities:

Sponsor	Chief Executive Officer
Business Owner	Deputy Chief Executive Officer
Policy Owner	Manager Workforce and Strategy
Policy Quality Control	Corporate Improvement and Strategy

**EVAN PARDON
CHIEF EXECUTIVE OFFICER**

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