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## **1. STATEMENT OF INTENT**

In accordance with section 268 of the *Local Government Act 2009* and section 119 of the *Local Government (Operations) Regulation 2010*, a complaints Management process is established. The policy underpins the complaint management process and is consistent with the *Local Government Principles* as defined in section 4 of the *Local Government Act 2009*.

## **2. SCOPE OF THE COMPLAINTS MANAGEMENT PROCESS**

The complaints management process has been established for resolving complaints by affected persons about administrative actions of Council or Council officers. The complaints management process does not apply to a complaint as follows:-

- a) be made under Chapter 3 of the Act about competitive neutrality issues;
- b) about official misconduct that should be directed to the Crime and Misconduct Commission;
- c) made under the *Public Interest Disclosure Act 2010*; and
- d) about conduct and performance of Councillors as prescribed in Chapter 6, Part 2, Division 6 of the *Local Government Act 2009*.

## **3. OBJECTIVES**

The complaints management process is established with the following objectives;

- 3.1 The fair, efficient and consistent treatment of complaints about decisions and other administrative actions of the Council;
- 3.2 A complaints management process that is easy to understand and is readily accessible to all;
- 3.3 Detection and rectification, where appropriate, of administrative errors;
- 3.4 Identification of areas for improvement in the Council's administrative practices;
- 3.5 Increase in awareness of the complaints management process for the Council's staff and the community;
- 3.6 Enhancement of the community's confidence in the complaints management process and the reputation of the Council as being accountable and transparent;
- 3.7 Building the capacity of staff to effectively manage complaints in an environment of continuous improvement;

- 3.8 Complaints will be acknowledged and resolved in a timely manner;
- 3.9 Council will manage complaints confidentially and ensure that complainants do not suffer any form of reprisal for making a complaint;
- 3.10 Council will abide by the principles of natural justice/procedural fairness when dealing with complaints.

#### **4. POLICY COMMITMENT**

Council intends to provide a level of customer service that does not attract complaints, but acknowledges the right of persons to provide feedback, both positive and negative, on its services and/or to lodge a complaint about a decision or other action it takes.

Council commits to providing adequate resources to deal with complaints and to record and analyse complaints data.

Council will endeavour to ensure that:

- Anyone who is dissatisfied about a decision or other action can easily and simply lodge a complaint;
- Complainants are provided with information on the complaints management process and, if necessary, assistance to make their complaint;
- Each complaint is initially assessed in terms of its seriousness, safety implications, complexity and degree of urgency;
- Council officers will receive complaints in a professional manner and welcome valid feedback as an opportunity for improvement of the Council's administrative practices;
- Complaints are resolved as quickly as possible, preferably on first contact if the complaint is straightforward;
- Complainants are advised of their appeal rights at the relevant stages of the complaint management process;
- Complainants will be provided with a written statement of the outcomes, including details of the reasons for the outcome at the relevant stages of the decision-making process;
- People with particular needs are assisted – for example people who are in any way disadvantaged by intellectual or physical disability, education, language ability or any other impairment.

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## 5. DEFINITIONS

Terms used in the complaints management process have the following meanings:-

**Administrative action** – an administrative action of the Council, being an action about a matter of administration, including each of the following:-

- a) a decision and an act;
- b) a failure to make a decision or do an act, including to provide written reasons for a decision;
- c) the formulation of a proposal or intention;
- d) the making of a recommendation.

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

**CEO** – the Chief Executive Officer of the Council.

**Council** – Quilpie Shire Council.

**Council Officer** – includes a permanent, temporary, casual or contractor employed by Council.

**Complaints management process** – is a process for resolving complaints about administrative actions of the local government that –

- a) covers all administrative action complaints made to the local government; and
- b) requires the local government to quickly and efficiently respond to complaints in a fair and objective way; and
- c) includes the criteria considered when assessing whether to investigate a complaint; and
- d) requires the local government to inform an affected person of the local government's decision about the complaint and the reasons for the decision, unless the complaint was made anonymously.

**The Act** – Local Government Act 2009.

**Natural Justice** – or procedural fairness is giving someone who might be adversely affected by a decision a fair hearing before the decision is made.

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**Review** – to undertake a second or repeated examination of a past event or decision, taking into consideration the facts and circumstances of such event or decision.

## **6. REMEDIES**

Council has adopted a range of remedies for addressing administrative actions that it considers to be unfair or wrong. Remedies include, but are not limited to:-

- 6.1 An explanation for the action in question
- 6.2 An admission of fault
- 6.3 An apology
- 6.4 Revocation or amendment of the decision
- 6.5 Rectification, including repairing or replacing the matter in dispute
- 6.6 Revision of relevant policy, procedure or practice
- 6.7 Provision of technical assistance
- 6.8 Reimbursement of cost incurred as a result of the action in question
- 6.9 Financial compensation, including an ex-gratia payment
- 6.10 Waiver of debt

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

## **7. IMPLEMENTATION OF REMEDY**

Council, through the CEO or delegate, will take action in a timely manner to implement any remedy made available to a complainant and/or any revision of its policy, practice or procedure.

## **8. REVIEW BY OTHER COMPLAINTS ENTITIES**

If Council decides not to undertake a review, it will inform the complainant that a complaint may be lodged with the Queensland Ombudsman or other relevant complaint entity (giving contact details). It is also recognised that a complainant is also entitled to have a matter externally reviewed if they are still dissatisfied with the outcome of Council's review process.

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## **9. COMPLAINTS MANAGEMENT SYSTEM**

Council will maintain a *Register of administrative action complaints* to ensure complaints are recorded including the decision and outcome.

## **10. RESPONSIBILITY OF OFFICERS**

All Council officers:-

- a) Are required to observe the complaints management process; and
- b) Wherever appropriate, attempt to resolve a complaint before it is referred for attention under the complaints management process.

## **11. RELATED POLICIES OR PROCEDURES**

All Council policies and procedures must be taken into consideration when considering or investigating a complaint under the complaints management process.

## **12. COMMUNICATION**

The Council will take appropriate steps to publicise the complaints management process. For example, Council will place this document on its website and include training on the complaints management process in the induction process for new employees and in other staff training.

## **13. REVIEW DATE**

August 2014

## **14. ATTACHMENT**

Procedure – Administrative Action Complaints

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## Procedure – Administrative Action Complaints

Approval Date:  
Review Date: 30 June 2014  
Department/Section: Governance

Quilpie Shire Council

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### OBJECTIVE

A procedure to outline a process to be followed in dealing with administrative action complaints in accordance with section 268 the *Local Government Act 2009* and section 119 of the *Local Government (Operations) Regulation 2010*.

The procedure also has regard to the *local government principles* as defined in section 4 of the *Local Government Act 2009*.

### Policy Reference

Administrative Action Complaints Policy

### 1. COMPLAINT HANDLING PROCEDURE

This procedure is pursuant to the following local government principles, thereby allowing Council the flexibility to adequately deal with complaints, having regard to the size of Council and its community population.

- (a) transparent and effective processes, and decision-making in the public interest; and
- (b) sustainable development and management of assets and infrastructure, and delivery of effective services; and
- (c) democratic representation, social inclusion and meaningful community engagement; and
- (d) good governance of, and by, local government; and
- (e) ethical and legal behaviour of councillors and local government employees.

#### 1.1 Complaints process

In the first instance, a complainant should contact the relevant service area of the Council, provide their rationale why they believe the decision to be wrong and request rectification of the decision. It may be apparent on the face of the complaint that an error has been made and that the administrative action in question can be promptly remedied. An explanation of the Council's action or decision may be sufficient to satisfy the complainant in a particular case.

If rectification is not forthcoming then the following steps describe the model adopted by Council for handling complaints:

- Step 1 – Intake and assessment
- Step 2 – Internal review and investigation
- Step 3 – Complaint finalisation
- Step 4 – External review

### **Step 1 – Intake and assessment**

CEO to review a complaint to determine:

- (a) whether or not it is captured by the Administrative Action Complaints Policy and Procedures; and
- (b) whether or not it warrants investigation.

If the complaint is to be investigated, the CEO, or delegate, to:

- (a) complete the 'Register of administrative action complaints';
- (b) categorise the complaint by its severity and allot a timeframe to the complaint for resolution;
- (c) give the investigator/reviewing officer written instructions stipulating the date by which the investigation is to be completed; and
- (d) acknowledge receipt of the complaint and advise the complainant that the matter is to be investigated and the date the investigation is to be completed by.

If a complaint is not to be investigated, the CEO to:

- (a) acknowledge receipt of the complaint;
- (b) advise the complainant that the complaint will not be investigated;
- (c) provide the complainant with the reasons for the decision; and
- (d) advise the complainant of any available avenues of appeal.

The procedure should also:

- (a) require that a complaints officer, when investigating a complaint, must be equal to or senior to the original decision-maker; and
- (b) identify a process for reviewing and investigating complaints where the subject of the complaint is the CEO.

### **Step 2 – Internal review and investigation**

An investigation by a complaints officer should include, but not be limited to:

- (a) ensure they act within their power and understand their role and terms of reference;
- (b) establish a list of people to be interviewed and any files or locations to be inspected;
- (c) conduct interviews and inspect sites and documents required;

- (d) gather and record information by eg. 'talking to both sides;
- (e) provide relevant information to those in the investigations;
- (f) observe any legal requirements involved in making decisions;
- (g) research and apply any relevant law;
- (h) evaluate the evidence and make findings;
- (i) identify factors that contributed to the complaint arising;
- (j) formulate recommendations; and
- (k) prepare a report clearly summarising the matter and results of the investigation, setting out findings and recommendations, including remedies if deemed appropriate.

### **Step 3 – Complaint finalisation**

Following a detailed investigation of a complaint by a complaints officer, written advice must be provided to the complainant detailing the outcome of the review and specifically addressing their concerns. A statement of reasons, amongst other things, would include the following:

- (a) the allegation;
- (b) identifying the applicable legislation and any relevant Council policy or procedure;
- (c) the findings of fact;
- (d) the analysis;
- (e) the decision; and
- (f) the reasons for the decision.

If, on the other hand, there are grounds to uphold a complaint, for whatever reason, the statement must outline the proposed remedies and timeframes for their implementation.

### **Step 4 – External review**

When a complainant remains dissatisfied with the investigative outcome the CEO will advise the complainant of their external review rights by the Queensland Ombudsman or other relevant entity.

It should be clearly noted that a customer request or request for service is not an administrative action in terms of the Act. However, if Council fails to act on such requests or its rectification actions considered inappropriate then its actions or its failure to act is an administrative action as defined in the Act.

Complaints must be dealt with quickly and efficiently and every effort must be made by Council officers to achieve this outcome.



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## **1.2 Lodging a complaint**

A person may make a complaint in any of the following ways:

- (a) verbally, in person to a Council officer, clearly indicating that it is a complaint;
- (b) in writing (by letter, facsimile or by completing a complaint form);
- (c) by email to [admin@quilpie.qld.gov.au](mailto:admin@quilpie.qld.gov.au)
- (d) by or through an agent.

All complaints are to be referred to the CEO for appropriate action and recording into the complaints register. Every effort for assistance will be provided by Council officers in how to make a complaint and the process to be followed. In the first instance, complaints must be acknowledged in writing within seven (7) days.

## **1.3 Complaints officer**

All complaints are referred to the CEO who will assess the nature of the complaint and determine whether the complaint is to be investigated. Complaints will be reviewed as follows:

- (a) Complaints about the conduct of Council officers are to be reviewed by the CEO;
- (b) Complaints about the conduct of the CEO are to be reviewed by the Council;
- (c) Complaints about decisions of Council, made by resolution, will be reviewed by Council after considering and weighing the additional information supplied by the complainant outlining why they believe the decision is unfair, unjust, unreasonable or wrong.

## **1.4 Criteria for refusing to investigate a complaint**

Complaints must be assessed so that they are fully understood followed by an assessment as to whether it will be investigated. Criteria for this process are as follows:

- (a) what the complainant wants as an outcome as it may be possible to amicably and informally resolve the matter quickly and without detailed investigation;
- (b) whether the resources required to deal with the matter would be disproportionate to the complaint's significance and likely outcome;
- (c) what remedies would be available;
- (d) if the complaint has previously been dealt with under the Administrative Action Complaints procedure; and
- (e) sufficient direct interest.

Further to item (e) above although the CEO may refuse to investigate a complaint if he or she reasonably considers that the complainant does not have sufficient direct interest in the administrative action, it is important to note that this is a discretionary power which may or may not be exercised. Therefore, the CEO may, depending on the particular circumstances, decide to accept a complaint for investigation despite the complainant not having a sufficient direct interest in the matter.

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### **1.5 Investigating a complaint**

The investigation of a complaint must be undertaken by the complaints officer in an independent, impartial and objective manner. When conducting an investigation the complaints officer will adhere to the following principles:

- (a) Procedural fairness/natural justice;
- (b) The civil standard of proof (balance of probabilities) is to apply;
- (c) Confidentiality must be maintained to the extent the law permits;
- (d) Lawfulness of a particular action is not necessarily decisive of the issue in dispute. The complaints officer will also assess whether the action was unfair, unreasonable or wrong.

The complaints officer must also follow the four stages of the investigative process as outlined in section 1.1 of this procedure.

If necessary, the complaints officer should contact the complainant to negotiate an extension of time if standard timeframes cannot be met. Contact should be made as soon as possible (i.e. as soon as the officer becomes aware of the fact the timeframe is not likely to be achieved, or before the expiry of the timeframe).

### **1.6 External review**

Advice to a complainant should include reference to other external review entities, in the event they seek further review. Council will make every effort to cooperate with external review.

### **1.7 Monitoring and reporting**

The complaint management process will be reviewed and evaluated in accordance with set timeframes as specified in the policy and procedure.

Complaints, including the register of complaints, will be reviewed annually and reported to Council.

## **2. RELATED POLICY/PROCEDURE/DOCUMENTATION**

Administrative Action Complaints Policy

## **3. REFERENCES**

Queensland Ombudsman's Office [www.ombudsman.qld.gov.au](http://www.ombudsman.qld.gov.au)

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#### 4. DEFINITIONS

Terms used in this procedure have the following meanings:

**Customer request** – means a Council process that records and monitors public feedback, suggestions and problems with there being a formal procedure for appropriate action.

**Request for service** – a request from a person seeking a service normally provided by Council whether it be free or on a cost-recovery basis.

**Review** – to undertake a second or repeated examination of a past event or decision, taking into consideration the facts and circumstances of such event or decision.