

COMPLAINTS MANAGEMENT PROCESS POLICY

INTENT

The intent of Council's Complaint Management Process Policy, is to provide a framework for community members and employees to understand the procedures developed to effectively and efficiently progress administrative action complaints from receipt through to resolution, ensuring matters are addressed in a timely manner and to utilise community feedback to review service delivery.

SCOPE

This framework has been developed to inform Council staff and community members the process undertaken to deal with all complaints received by Council however prominence is placed on the handling of administrative action complaints as required by section 268 of the *Local Government Act 2009* and section 306 of the *Local Government Regulation 2012*.

DEFINITIONS

TERM	DEFINITION
Administrative Action Complaint	an administrative action complaint is defined in section 268(2) of the <i>Local Government Act 2009</i> .
Affected Person	is a person who is apparently directly affected by an administrative action of a local government.
Complaint	is an "expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required" ¹

¹ See Australian/New Zealand Standard AS/NZS 10002:2014 Guidelines for Complaint Management in organizations (as amended) at www.standards.com.au.

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TERM	DEFINITION
Complainant	a complainant is a person or entity who makes a complaint.
Complaints of Councillor Conduct	Behaviours that are contrary to the Code of Conduct for Councillors in Queensland December 2018
Corrupt Conduct	Corrupt conduct is defined by section 15 of the <i>Crime and Corruption Act 2001</i> .
Frivolous Matter	<p>A frivolous matter is one which is viewed as trivial, lacking in substance, or unworthy of serious attention.</p> <p>Considerations include whether:</p> <ul style="list-style-type: none"> • the complainant has a history of making false or unsubstantiated complaints; • there is no information to support the allegation in any way; • the allegation is not serious or sensible, and is of such a nature that a reasonable person could not treat it as being bona fide; • the allegation is without any foundation and appears to be designed to harass, annoy or embarrass the subject officer; • the allegation is inherently improbable and there is no information that in any way supports it.
Investigating Officer	An investigating officer is the officer selected to investigate the complaint and may be a supervisor, manager, general manager or an external investigator.
Public Interest Disclosure	A public interest disclosure is defined by section 12 and 13 of the <i>Public Interest disclosure Act 2010</i> .
Request for Service	A request for the Council to take action to satisfy the needs of a customer or ratepayer.
Unjustifiable Use of Resources	<p>Action may be an unjustifiable use of resources if:</p> <ul style="list-style-type: none"> • the law or policy alleged to have been breached is no longer in force (unless the breach occurred when the law was in place); • the lapse of time between the action and the making of the complaint reduces the likelihood of productive investigation through inability to obtain relevant evidence; • the complaint is repetitious — repeating, without any additional grounds and with no new allegations or evidence, the substance of a previous complaint that has been dealt with; <p>or</p> <ul style="list-style-type: none"> • the complaint cannot be substantiated because there could

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	not be any evidence capable of proving the allegations.
<i>Vexatious Complaint</i>	A vexatious complaint is one which is intended to, or perceived to intend to cause distress, embarrassment, or to harass the subject of the complaint (may also relate to Frivolous complaints).

POLICY STATEMENT

Council is committed to delivering high quality service to the communities it serves and understands that there will be times when people will not be completely satisfied with services provided. Accordingly, Council encourages people to come forward and voice their dissatisfaction as this provides an opportunity to review the issue and where relevant, rectify the issue and/or improve its internal procedures to enhance service levels.

This framework has been developed with overarching principles², detailed below, to ensure that all complaints are managed to meet statutory requirements and to deliver the best outcomes to the community.

<i>Customer Focused</i>	<i>The organisation is committed to effective complaint handling and values feedback through complaints</i>
<i>Visibility</i>	<i>Information about how and where to complain is well publicised to customers, staff and other interest parties.</i>
<i>Accessibility</i>	<i>The process of making a complaint and investigating it is easy for complainants to access and understand</i>
<i>Responsiveness</i>	<i>Complaints are acknowledged in a timely manner, addressed promptly and according to order of urgency and the complainant is kept informed throughout the process.</i>
<i>Objectivity and Fairness</i>	<i>Complaints are dealt with in an equitable, objective and unbiased manner. This will help to ensure that the complaint handling process is fair and reasonable. Unreasonable complainant conduct is not allowed to become a burden.</i>
<i>Confidentiality</i>	<i>Personal information related to complaints is kept confidential.</i>
<i>Remedy</i>	<i>If a complaint is upheld, the organisation provides a remedy</i>

² Guidelines on Complaint Handling produced by the Western Australian Ombudsman and revised January 2017 <http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Binder-Complaint-Handling.pdf>

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Review *There are opportunities for internal and external review and/or appeal about the organisation’s response to the complaint and the complainants are informed about these avenues.*

Accountability *Accountabilities for complaint handling are clearly established and complaints and responses to them are monitored and reported to management and other stakeholders*

Continuous Improvement *Complaints are a source of improvement for organisations*

Whilst the intent of this policy is to provide an overview on how all complaints will be dealt with, there are certain processes in complaint management which are regulated by legislation and therefore separate policies or systems may apply. The types of complaints that may be received by a local government are:

- Allegations of corrupt conduct
- Allegations of misconduct or inappropriate conduct by an elected representative
- Public Interest Disclosure
- Administrative Action Complaints

A process map outlining how complaints will be processed is attached as **Appendix “A”** and further detail on these types of complaints follow:

CORRUPT CONDUCT

The legal definition of corrupt conduct is found in section 15 of the *Crime and Corruption Act 2001* and further information obtained from the Crime and Corruption Commission Queensland’s website details two types of corrupt conduct.

“Type A” corrupt conduct involves conduct that affects, or could affect, a public officer (an employee of a public sector agency) so that the performance of their functions or the exercise of their powers:

- *is not honest or impartial, or*
- *knowingly or recklessly breaches public trust, or*
- *involves the misuse of agency-related information or material.*

Common examples of Type A corrupt conduct include fraud and theft, extortion, unauthorised release of information, obtaining or offering a secret commission and nepotism.

“Type B” corrupt conduct involves specific types of conduct that impair, or could impair, public confidence in public administration. This may include:

- *collusive tendering, or*
- *fraud relating to an application for a licence, permit or other authority relating to public health or safety; the environment; or the State’s natural, cultural, mining or energy resources, or*

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- *dishonestly obtaining public funds or State assets, or*
- *evading a State tax, levy or duty or fraudulently causing a loss of State revenue, or*
- *fraudulently obtaining or retaining an appointment.*

Both Type A and Type B corrupt conduct must be either a criminal offence or serious enough to warrant dismissal.

In accordance with section 38 of the *Crime and Corruption Act 2001*, any allegations of corrupt conduct received by Council must be referred to the Crime and Corruption Commission.

Council’s policy, “Section 48A – Complaints about Public Official” details actions required should the allegations of corrupt conduct involve the Chief Executive Officer.

COMPLAINTS OF COUNCILLOR CONDUCT

Pursuant to section 150D of the *Local Government Act 2009*, the Minister for Local Government must make a Code of Conduct stating the standards of behaviour for councillors in the performance of their responsibilities as councillors. The uniform Code of Conduct for Councillors in Queensland was approved in December 2018.

Essentially councillor conduct complaints can be categorised into 4 (four) types being:

1. Unsuitable meeting conduct

Unsuitable meeting conduct is handled by a council in the council meeting. It is unsuitable meeting conduct when a councillor, in a council meeting, contravenes the code of conduct or a council policy. Refer to Council’s Model Meeting Procedures Policy.

2. Inappropriate conduct

Section 150P of the *Local Government Act 2009* states that allegations of inappropriate conduct must be referred to the Independent Assessor. It is inappropriate conduct when a councillor contravenes a behavioural standard (a breach of the councillor code of conduct), or a policy, procedure or resolution of council, an order of the chairperson of a council meeting to leave and stay away, or when a councillor received orders for unsuitable meeting conduct three times in one year.

3. Misconduct

Section 150P of the *Local Government Act 2009* states that allegations of misconduct must be referred to the Independent Assessor. It is misconduct when a councillor is dishonest or biased in the exercise of their powers.

Behaviours categorised as misconduct include:

- breaches of trust

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- misuse of information or material acquired in or in connection with the performance of the councillor's function for the benefit or detriment of the councillor or another person
- giving directions to local government employees
- releasing information confidential to council
- failing to report suspected conflicts of interest of other councillors
- failing to comply with an order of the council or the Councillor Conduct Tribunal
- failing to comply with acceptable request guidelines of the council
- failing to comply with a council policy about the reimbursement of expenses
- being disciplined for inappropriate conduct three times in one year.

4. Corrupt conduct

Any allegations of corrupt conduct against a councillor, will be dealt with in accordance with section 38 of the *Crime and Corruption Act 2001* and referred to the Crime and Corruption Commission.

PUBLIC INTEREST DISCLOSURE

A public interest disclosure is a disclosure about wrongdoing in local government and Council has a statutory obligation to deal with these disclosures in accordance with the Public Interest Disclosure Act 2010 (the PID Act).

There are only certain kinds of information that are 'public interest disclosures':

Any person, including a public sector employee, can make a public interest disclosure about:

- danger to the health or safety of a person with a disability
- danger to the environment caused by commission of an offence or contravention of a condition in certain environmental legislation
- reprisal after making a public interest disclosure.

A public sector officer can also make a public interest disclosure about:

- corrupt conduct
- maladministration that adversely affects someone's interests in a substantial and specific way
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety
- a substantial and specific danger to the environment.

If a disclosure is not a public interest disclosure, it may still be in an important complaint and therefore details should be submitted to Council for investigation.

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ADMINISTRATIVE ACTION COMPLAINT

The most common form of complaint received is an administrative action complaint as these complaints concern the general operations of Council and the provision of services to the community. This type of complaint is defined in section 268(2) of the *Local Government Act 2009*, and is a complaint made by an affected person about an administrative action of a local government, which can include the following examples:

- A decision, or failure to make a decision, including a failure to provide a written statement of reasons for a decision;
- An act, or failure to do an act;
- The formulation of a proposal or intention;
- The making of a recommendation.

Furthermore section 268(3) of the *Local Government Act 2009* defines an affected person as a person who is apparently directly affected by an administrative action of a local government.

Whilst the definition of an administrative action complaint is quite wide ranging there are complaints that would be excluded from this complaint management process. These exclusions include:

- any matter where recourse is available through –
 - a statutory appeal process; or
 - a statutory resolution mechanism; or
 - a dispute resolution mechanism available in an industrial instrument;
- decisions by Council resolved at Council Meetings; and
- requests for service.

In addition, Council reserves the right to refuse to investigate a complaint if it is reasonably considered that:

- the complaint concerns frivolous matters or is deemed vexatious; or
- the complainant does not have a sufficient direct interest in the administrative action which is the subject of the complaint; or
- the complainant has a right of appeal, reference or review, or another remedy that the person has not exhausted; or
- the investigation of the complaint is deemed to be an unjustifiable use of resources.

The Chief Executive Officer is the only officer with the authority to categorise a complaint as:

- frivolous or vexatious; or
- to be an unjustifiable use of resources.

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COMPLAINT PROCESS

This Complaints Management Process will be published on Council's website and may be inspected at Council's Administration Office. Complaints may be submitted through the following options:

- The "Contact" page on Council's website <http://www.cook.qld.gov.au/cook-shire-council/contact-council/>
- Emailing Council at mail@cook.qld.gov.au
- Post to The Chief Executive Officer, Cook Shire Council, PO Box 3, Cooktown Qld 4895
- Lodged in person at Council's Administration Office at 10 Furneaux Street Cooktown Qld 4895
- By contacting a Customer Service Officer on (07) 4069 5444

Council will provide reasonable assistance to an affected person to enable lodgement of their complaint. Anonymous complaints will be referred to the Manager Governance and Risk, who will determine the appropriate action to be undertaken or whether further action will be taken.

Upon receipt of a complaint, the receiving officer will determine the category of complaint as per the process map contained in **Appendix "A"** and have the complaint either:

- logged into Council's Request Management System or
- profiled into Council's Electronic Document Management System (EDMS) to the relevant officer.

If it is not clear to the receiving officer as to the category of complaint, the matter should be referred to the Manager of Governance and Risk to confirm the correct method in progressing the complaint.

Important: Any officer who receives a complaint concerning either corrupt conduct of a public interest disclosure should not discuss the matter with other officers unless seeking guidance from senior management. Severe penalties may be incurred should confidentiality not be maintained.

Administrative action complaints that cannot be progressed through Council's Customer Request Management System will be tasked to the HR and Business Services Administrator. Upon receipt of the complaint the HR and Business Services Administrator will undertake the following actions:

- enter the details of the complaint into Council's Customer Complaint Register –
 - EDMS reference number of the complaint
 - Date complaint received and relevant financial year
 - Name of complainant
 - Investigating officer handling complaint (the investigating officer will be a supervisor, team leader or manager who has not had a direct involvement in the complaint)

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- Create a Complaint Action Record Sheet and enter the EDMS reference number for this document into the register
- Issue an acknowledgement letter to the complainant within five (5) working days of Council receiving the complaint. This acknowledgement letter will advise the complainant the name of the investigating officer and the expected date of complaint determination. Details of the acknowledgement letter is to be recorded in the Complaint Action Record Sheet.
- Date referred to investigating officer
 - Through Council’s EDMS, refer the original complaint and the Complaint Action Record Sheet to the investigating officer.

The investigating officer will take all reasonable and necessary actions to objectively and impartially assess the complaint. All actions and documents received or created must be recorded in the Complaints Action Record Sheet with relevant EDMS reference numbers.

The timeline to complete assessment of the complaint is 15 days from Council’s receipt of the complaint. Should the complaint be of a complex nature this timeline may be extended upon written advice to the complainant.

The complainant is to be advised in writing the determination of the complaint, the reasons for that decision, if appropriate the rectification action and the option available to request an internal review decision should the complainant not be satisfied with outcome.

The investigating officer is to inform the HR and Business Services Administrator that the complaint has been finalised to enable the HR and Business Services Administrator to update the Customer Complaint Register.

MONITORING COMPLAINTS

The Manager Governance and Risk will report to the Executive Leadership Team on quarterly basis information including but not limited to:

- complaints received and outcomes determined
- time taken to resolve complaints
- comparisons with historical data and trend analysis
- identification of significant, emerging or recurring issues and recommendations for improvements
- status of the implementation of any previously identified improvements, and
- compliance with this policy and relevant procedures.

In addition, the Manager Governance and Risk will review the Complaints Management Process annually for effectiveness. The scope of the review will include all major elements of the complaints management process, staff and customer feedback, and an audit of finalised complaints for compliance and correctness of outcomes. The Executive Leadership Team will review the report and consider the implementation of any recommended improvements.

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RESOURCES AND TRAINING

Council will implement regular internal communication of the Complaints Management Process. This will include communication via email, staff induction sessions, and information published on Council's intranet.

Complaints handling staff will be provided with regular training on complaints management and Council's policy and procedures.

KEY RESPONSIBILITIES

RESPONSIBLE OFFICER	RESPONSIBILITY
Executive Leadership Team	Review and monitor complaints through reports provided and the annual assessment of the Complaints Management Process.
Manager Governance and Risk	Oversight of the policy and annual review of the effectiveness of the Complaints Management Process.
HR and Business Services Administrator	Oversight of the Customer Complaints Register and coordination of complaints received.

REFERENCES, LEGISLATION AND GUIDELINES

Legislation

Crime and Corruption Act 2001

Local Government Act 2009

Local Government Regulation 2012

Public Interest Disclosure Act 2010

Other References

Guidelines for Handling Complaints – Ombudsman of Western Australia (revised January 2017)

Complaints Policy and Procedure Guide – Queensland Ombudsman

Code of Conduct for Councillors in Queensland December 2018

Websites

<http://www.ccc.qld.gov.au/>

<https://oia.qld.gov.au/office-of-the-independent-assessor.html>

<https://www.ombudsman.qld.gov.au/>

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RELATED DOCUMENTS

Policy

D15/22899	Public Interest Disclosure Policy
D18/20563	Section 48a – Complaints about Public Officials
D16/3425	Code of Conduct Policy (Council Staff)

IMPLEMENTATION/COMMUNICATION

Upon formal adoption of the policy, the Complaint Management Process to be communicated to all staff through team meetings. Additional training provided by the HR and Business Services Administrator to Customer Service staff to ensure accuracy of complaint recording.

APPROVED BY

Council resolution

REVIEW

SPONSOR:	Director of Organisational Business Services
OFFICER RESPONSIBLE FOR REVIEW:	Manager Governance and Risk
ADOPTION DATE:	July 2019 (Council Resolution 2019/174)
REVIEW DATE:	July 2022

THIS POLICY IS TO REMAIN IN FORCE UNTIL OTHERWISE DETERMINED BY COUNCIL

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AMENDMENT HISTORY

VERSION	AMENDMENT DETAILS	AMENDMENT DATE	APPROVAL
V1.0	New Policy	March 2006	Council Resolution 25029
V2.0	General review and amendments	June 2010	Council Resolution 29250
V3.0	General review and amendments	September 2011	Council Resolution 30016
V4.0	General review and amendments	July 2013	Council Resolution 30588
V5.0	Minor amendments	May 2014	Departmental Review
V6.0	Details review and overhaul including related templates	July 2019	Council Resolution 2019/174

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