

POLICY

CORPORATE SERVICES

GOVERNANCE & CORPORATE PLANNING



GENERAL COMPLAINTS POLICY >>

1. POLICY STATEMENT >>

The role of Council is to provide open and accountable local government. An effective and transparent method of responding to complaints regarding its services, actions and the conduct of Councillors better enables Council to undertake this role.

Council is committed to a complaints management process which ensures the effective, transparent and timely resolution of complaints.

2. PRINCIPLES

This policy records the Council's general complaints process, as required under s.501D of the *Local Government Act 1993* ("the Act").

3. SCOPE >>

This policy applies to all staff and Councillors.

It applies to complaints as defined in s.501C of the Act received from complainants about an administrative action of Council or an alleged minor breach of Council's Code of Conduct for Councillors which may include:

- (i) a decision and an act;
- (ii) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision;
- (iii) the formulation of a proposal or intention;
- (iv) the making of a recommendation.

4. RESPONSIBILITY >>

The Chief Executive Officer, Directors, Executive Managers, Managers and the Complaints Officer are responsible for ensuring that this policy is understood and adhered to by all staff and Councillors.

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5. DEFINITIONS >>

An **administrative action** of the Council is defined in s.501C of the Act as an action about a matter of administration, and includes each of the following:

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

A **complainant** is an affected person as defined in s.501B of the Act as meaning a person lodging a complaint who is apparently directly affected by:

- (a) an administrative action of Council; or
- (b) an alleged minor breach by a Councillor of Council's Code of Conduct for Councillors.

A **complaint** is defined in s.501B of the Act as meaning:

- (a) a complaint under Council's general complaints policy about an administrative action of Council or an alleged minor breach of Council's Code of Conduct for Councillors which may include:
 - (i) a decision and an act;
 - (ii) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision;
 - (iii) the formulation of a proposal or intention;
 - (iv) the making of a recommendation; but
- (b) does not include a complaint that could be made under the complaints process provided for under Chapter 11 of the Act (Complaints About Competitive Neutrality); or
- (c) complaints that can be dealt with through a process identified under other legislation.

A complaint should not be confused with a service request.

The **Complaints Officer** is the Council Officer appointed by the Chief Executive Officer under section 501C of the Act who is responsible for investigating the complaint under this policy. The Complaints Officer must not be involved with the administrative action or alleged minor breach of the Code of Conduct for Councillors that is the subject of the complaint.

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Conduct review panel is a pool of qualified members appointed by Council to review complaints referred to the panel under Division 4 Subdivision 4 of the Act.

Minor breach is as defined in the Code of Conduct for Councillors.

Servives are services provided to the community by Council, including libraries, the provision of community assistance, waste disposal, water and wastewater.

6. PROCEDURE >>

(a) Process for selecting and appointing a Complaints Officer to investigate complaints

The Chief Executive Officer appoints the Executive Manager, Governance & Corporate Planning, as Council's Complaints Officer for all complaints other than:

- (i) complaints of a personal nature regarding a staff member or an administrative action involving the Executive Manager, Legal Services, in which case the Chief Executive Officer will be the Council's Complaints Officer.
- (ii) all complaints relating to:
 - an allegation of official misconduct by any person;
 - an allegation that a Councillor or Council staff member has failed to comply with a Commonwealth or State law;
 - an allegation that a Councillor has committed a minor breach of the Code of Conduct for Councillors; or
 - an administrative action involving a Councillor, the Chief Executive Officer, a Director or an Executive Manager;

in which case the Executive Manager, Legal Services, is appointed as the Council's Complaints Officer.

The Chief Executive Officer may elect to investigate any complaint.

(b) Preliminary procedures before a complainant can make a complaint

A complainant who wishes to make a formal complaint about an administrative action is encouraged to first make the complaint to, and will be initially directed to the senior officer responsible for making or administering the decision in the first instance. This does not stop the complainant from making a complaint directly to the relevant Complaints Officer.

There is no preliminary procedure for complaints that allege a minor breach of the Code of Conduct for Councillors.

Pursuant to the *Freedom of Information Act*, application may be made by any person to seek access to a range of Council documents. Such a request must be made in writing and accompanied by the prescribed fee. Such a request is not of itself a complaint.

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(c) The way a complainant may make a complaint

Any complaint that is believed to be an emergency should be telephoned through to the appropriate Council Officer for immediate action.

All other complaints must be in writing, signed by the complainant, and include contact telephone numbers for the person.

A complainant who makes a verbal complaint will be strongly encouraged to commit the complaint to writing to ensure that it is clearly understood by the relevant Complaints Officer.

If a complainant declines to make the complaint in writing, then the complainant will be advised to contact the relevant Complaints Officer.

If the verbal complaint appears to raise serious issues, then regardless of whether the complainant agrees to contact the Complaints Officer, the Council Officer receiving the complaint must document it at the first instance and refer it to the relevant Complaints Officer for action.

All verbal or anonymous complaints received by a Complaints Officer will be considered. When the Complaints Officer decides that the substance of the complaint is sufficiently serious as to warrant it being processed under this policy even though it has been made verbally or anonymously, the complaint will be dealt with as if it had been made in writing and signed.

Written complaints must be given to the Council by addressing the correspondence to the Chief Executive Officer and either:

- delivering to a Council Customer Service Centre;
- posting it addressed to Chief Executive Officer, Townsville City Council, PO Box 1268, Townsville Qld 4810;
- sending it by electronic to Council at enquiries@townsville.qld.gov.au; or
- sending by fax mail to 4727 9050.

Complaints will be handled in the following manner:

- (i) The hard copy of a complaint, and any correspondence associated with it, whether received in writing or via email, will be registered by the Corporate Information Solutions Service Unit and forwarded to the appropriate Complaints Officer for action. It will be entered simultaneously into that Complaints Officer's complaints system.
- (ii) All appropriate information, including the source of the complaint and adequate detail about the matter, must be entered into the Complaints Management System in Dataworks so any Council Officer viewing the matter is able to determine the status of the complaint at any time.
- (iii) Receipt of a complaint must be acknowledged in writing within five working days unless another communication medium is more suitable. For example, it may be more efficient and effective to telephone the complainant directly.

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A record must be made of all acknowledgements and these must be placed on the Complaints Management System immediately.

- (iv) Some action must be taken towards resolving the complaint within 10 working days. All relevant details must be recorded in the Complaints Management System.
- (v) If the complaint has not been, or is expected to not be, resolved within 30 days of the complaint, then the Complaints Officer must advise the complainant of action that must occur in the future to bring the matter to resolution.
- (vi) It is imperative that once ANY action is taken in relation to a complaint, an appropriate response/action is entered into the notes or related documents (response letter) fields of the Complaints Management System. This must be done for every action taken until the complaint is resolved.

(d) Sending complaints to, and their investigation by, the Complaints Officer

Most complaints will be received by staff in Council's Corporate Information Solutions Service Unit who will then allocate the task of resolving the complaint to the appropriate Council Officer.

Any Council Officer who receives a complaint, but who does not have access to the Complaints Management System, has a responsibility to ensure the complaint is entered into the system by another Council Officer.

All relevant information about the complaint, including its source and adequate detail about its nature, must be entered into the Complaints Management System. This will enable any Council Officer reviewing the status of the complaint to determine exactly what progress is being made to resolve the matter.

The Complaints Officer must contact the customer, within five working days to advise that they are responsible for the investigation of the complaint and, if required, to invite the complainant to provide further details. This contact may be written or verbal. A note of any contact must be made on the Complaints Management System.

The Complaints Officer must provide the complainant with full details of their full name, position and contact details.

The Complaints Officer must advise the complainant of the intended course of investigation and provide the complainant with an anticipated date for an outcome.

In attempting to resolve the complaint the Complaints Officer must ensure that:

- (i) No person subject to a complaint deals with that complaint;
- (ii) A complaint is not handled by the same Council Officer who took the original service request (that is, the request which commenced the action that has been complained about);

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- (iii) If a complaint is forwarded to another Council Officer for further technical advice, physical inspection or any other reason, the Complaints Officer monitors progress to ensure that the matter is brought to a successful resolution; and
- (iv) Each action taken in relation to a complaint is recorded into the notes or related documents (response letter) fields of the Complaints Management System. (This must be done for every action taken until the complaint is resolved).
- (e) Opportunity for the complainant to give the Complaints Officer further information about the complaint**
 - (i) After initially assessing the complaint material, the Complaints Officer will invite the complainant to provide further information to assist in fully understanding the complainant's concerns, the issue/s to be investigated (if an investigation is to be undertaken) and the outcome or remedy sought by the complainant.
 - (ii) Seeking further information from the complainant at this stage of the complaints process may be undertaken by telephone, email, mail or face-to-face discussion. The Complaints Officer will record a fair summary of any verbal information received and will confirm with the complainant in an appropriate manner that the summary accurately reflects the information provided by the complainant.
 - (iii) The Complaints Officer will attempt to resolve the complaint informally, for example, by providing an explanation for the Council's or the Councillor's action in the particular case. A complaint may be resolved or withdrawn by the complainant at any time during the complaints process. A complaint is taken to be resolved to the complainant's satisfaction, or is taken to be withdrawn, if the complainant gives a clear indication to that effect to the Complaints Officer. Written notice that the complaint has been resolved, and the general manner in which it was resolved, will be given to both the Council and the complainant.
 - (iv) If, in the opinion of the Complaints Officer, resolution of a complaint about an administrative action merely involves rectification of an obvious error or a remedy of a similar nature, the Complaints Officer will discuss the issue with the relevant Council Officer with a view to resolving the complaint.

(f) Failure to resolve

If the complaint is not resolved to the complainant's satisfaction through the general complaints process, the Complaints Officer must give the Council and the complainant:

- (i) a written report on the results of the Complaints Officer's investigation of the complaint. If the complaint is about a minor breach of the Code of Conduct for Councillors, Council must consider the report and:
 - (1) decide by resolution under s.250S(2) of the Act to take no further action in relation to the complaint if satisfied the complaint concerns frivolous matter or was made vexatiously; or

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- (2) decide whether the Councillor in question has committed the alleged minor breach.

In deciding whether the Councillor has committed a minor breach, Council must comply with the principles of natural justice and, at the least, afford the Councillor an opportunity to make a submission on whether the breach was committed. If Council decides the Councillor committed the minor breach it must then give the Councillor an opportunity to make a further submission on whether a penalty should be imposed and the nature of that penalty, being one of the actions that may be taken under s.250S(4), namely:

- (1) take no further action in respect of the breach;
- (2) by resolution, impose a penalty on the Councillor under Subdivision 5 of the Act;
- (3) if it considers the breach may be a repeat breach of the Code of Conduct for Councillors, refer a complaint about the repeat breach to its Conduct Review Panel for review.

If the Council is of the view that a complaint about a minor breach was frivolous or made vexatiously, it may give notice to the Complainant under s.250ZJ(1) of the Act that if the Complainant makes the same (or substantially the same) complaint, he/she commits an offence for which the maximum penalty is 20 penalty units.

- (ii) any recommendation in relation to the complaint the Complaints Officer considers appropriate; and
- (iii) an invitation to attend the relevant Committee meeting of Council where the complainant may be invited to speak to the meeting.

Where a report is submitted to Council and there has been no resolution, Council must give the complainant notice of the outcome of Council's consideration of the report and its recommendation within 20 working days.

Internal review, conciliation and investigation of customer complaints do not always result in resolution of a complaint to the satisfaction of the complainant. In these situations referral to an external agency may be the most appropriate action.

External sources may include the following:

- (i) Queensland Ombudsman
- (ii) Judicial Review (Local Government is subject to the *Judicial Review Act 1991*)
- (iii) Tribunals
- (iv) Courts

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- (v) Other bodies e.g. Queensland Building Tribunal; Anti Discrimination Commission; Magistrates Court, Queensland District Courts including Planning & Environment Court, Supreme Court and Crime & Misconduct Commission.
- (g) Recording the number of complaints made and resolved or refused through the general complaints process.**

Complaints made under this process will be recorded in the Complaints Management System and Council's Annual Report. The record will include:

- (i) the total number of breaches of the Code of Conduct for Councillors by Councillors during the year;
- (ii) the name of each Councillor decided during the year to have breached the Code, a description of how the Councillor breached the Code, and details of any penalty imposed by Council on the Councillor;
- (iii) the number of complaints about alleged breaches of the Code of Conduct for Councillors, other than frivolous or vexatious complaints, that were referred to the conduct review panel during the year by Council or the Chief Executive Officer under Chapter 4, Part 3A of the Act;
- (iv) the number of recommendations made to Council by the conduct review panel during the year that were adopted, or not adopted, by Council;
- (v) the number of complaints resolved under Council's general complaints process during the year and the number of those complaints that related to an alleged breach of a Councillor of the Code of Conduct for Councillors;
- (vi) the number of complaints made to the Ombudsman, and notified to Council, during the year about decisions made by Council in relation to enforcement of its Code of Conduct for Councillors; and
- (vii) Details of the decisions made to refuse to investigate complaints, including the reasons for each refusal decision.

Summary reports of all complaints will be compiled monthly for each department and forwarded to the relevant Directors and Executive Managers. All the information will be collated into a comprehensive report for the Chief Executive Officer.

(h) Refusal to investigate

The Complaints Officer may refuse to investigate a complaint or, having started to investigate a complaint, refuse to continue the investigation if the officer reasonably considers that:

- (i) the complaint is trivial; or

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- (ii) the complaint concerns frivolous matter or was made vexatiously; or
- (iii) the person who made the complaint (the complainant) does not have a sufficient direct interest in the administrative action or alleged minor breach of the Code of Conduct for Councillors complained of; or
- (iv) both of the following apply:
 - (1) the complainant has a right of appeal, reference or review, or another remedy, that the person has not exhausted; and
 - (2) it would be reasonable in the circumstances to require the complainant to exhaust the right or remedy before the officer investigates, or continues to investigate, the complaint; or
- (v) in the circumstances, investigating the administrative action or alleged minor breach of the Code of Conduct for Councillors complained of is unnecessary or unjustifiable.

The Complaints Officer must give the complainant notice of and reasons for the Complaints Officer deciding to refuse the investigation within 14 days of making that decision.

7. LEGAL PARAMETERS >>

Local Government Act 1993
Freedom of Information Act 1992
Judicial Review Act 1992
Whistleblowers Protection Act 1994

8. ASSOCIATED DOCUMENTS >>

Code of Conduct for Councillors
Code of Conduct for Staff
General Complaints Form

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