

ADMINISTRATIVE ACTION COMPLAINT MANAGEMENT PROCEDURE

1. Scope

The Administrative Action Complaint Procedure (this 'Procedure') applies to the management and investigation of all Administrative Action Complaints received by Livingstone Shire Council.

2. Purpose

The purpose of this Procedure is to:

- a) fulfil Council's statutory obligations by establishing a complaints management process for resolving administrative action complaints; and
- b) outline the process by which Livingstone Shire Council records, manages and resolves administrative action complaints.

3. References (legislation/related documents)

Primary

Administrative Action Complaint Management Policy

Legislative reference

Crime and Corruption Act 2001
Information Privacy Act 2009
Local Government Act 2009
Local Government Regulation 2012
Ombudsman Act 2001
Public Interest Disclosure Act 2010

Related documents

Code of Conduct
 Investigation Procedure
 Public Interest Disclosure Procedure
 Reporting Suspected Misconduct Directive
 Privacy Policy

4. Definitions

To assist in interpretation, the following definitions shall apply:

Administrative Action Complaint	A complaint that- <ol style="list-style-type: none"> (a) is about an administrative action of a local government, including the following, for example- <ol style="list-style-type: none"> (i) a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision; (ii) an act, or a failure to do an act;
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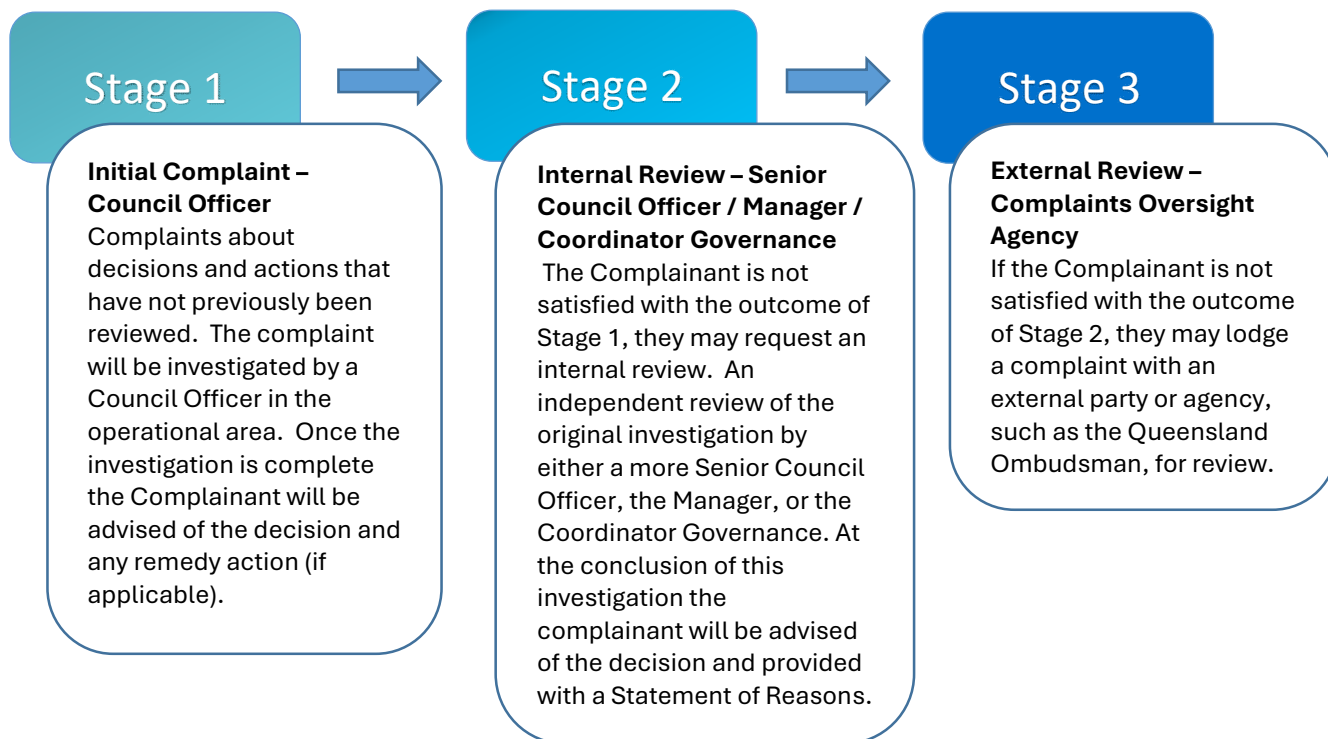
	(iii) the formulation of a proposal or intention; (iv) the making of a recommendation; and (b) is made by an affected person.
Affected Person	A person who is apparently directly affected by an administrative action of a local government.
Complainant	The affected person who has made the complaint.
Council	Livingstone Shire Council.
General Manager or Chief Officer	A second level executive employed by Livingstone Shire Council.
Frivolous Complaint	A complaint that has no serious purpose or value. It may have little merit and be trivial; investigating would be out of proportion to the seriousness of the issue complained about.
Natural Justice	The principles and procedures that govern the adjudication of disputes between persons or organisations. The principles of natural justice are: <ul style="list-style-type: none"> • all parties will have the right to be heard and judged without bias; and • all issues are investigated thoroughly and justly.
Procedural Fairness	The procedures used by a decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure be used when making a decision. The principles of Procedural Fairness are: <ul style="list-style-type: none"> • the standards of conduct or job performance required will be made clear to participants; • the participants will be made aware of the likely next steps in the process; • participants will be afforded the right to be accompanied and represented at discussions or interviews; and • the substance of any complaint will be verified before any action is taken on the matter.
Request for Service	A request by a customer for Council to take action and/or make a decision about a matter usually considered a normal part of Council operations such as sanitation, water supply, roads etc.
Statement of Reasons	Formal correspondence detailing the reasons for the decision.
Vexatious Complaint	A complaint which is considered to be pursued without merit and intends to cause inconvenience, harassment, or expense to Council and/or employees.

5. Procedure

The objectives of this Procedure are to:

- Ensure the complaint management process is fair, objective, transparent and consistent;
- Facilitate the use of information obtained from the complaints management process to improve business operations, service delivery, policies and procedures; and
- Ensure that the administrative action complaint is responded to in a timely manner.

Council will make every effort to resolve the complaint at the point of first contact, however if this cannot be achieved Council has implemented a three-tiered approach to its administrative action complaint management process.



There are five steps to the management of administrative action complaints:



5.1 Receiving a Complaint

a) Who can make a complaint?

Any affected person can make an administrative action complaint.

Complaints can be made on behalf of another person, however Council will need to verify that the person lodging the complaint is authorised to do so. Council prefers that consent be provided in writing and be certified authorising Council to respond directly to the nominated representative.

An affected person may make a complaint anonymously either in writing, via email or by telephone. In these instances it is important to provide as much information as possible and any supporting documents to enable the matter to be assessed and investigated. The affected person should note that it will not be possible for a Council Officer to clarify or seek further information from them, or advise them of any decisions in relation to the complaint.

b) Timeframe for lodging a complaint

An initial administrative action complaint must be lodged within 12 months of the date of the administrative action. Decisions to take up matters in excess of 12 months is at the discretion of the Chief Executive Officer, who will have regard to the nature of the issue, previous responses/advice, and availability to investigate or review the matter due to the passage of time, the supporting evidence available, or other legislative processes having taken effect.

Review of penalty infringement notices are exempt from the above and must be lodged within 28 days from issue of an infringement notice.

c) How to make a complaint

An affected person may make an administrative action complaint in any of the following ways:

- Telephoning Council's Customer Service Centre on 1300 790 919
- In person at a Customer Service Centre
 - 25 Normanby Street, Yeppoon (Town Hall)
 - 7-9 Hill Street, Emu Park (Library)

A complainant who makes a verbal complaint is encouraged to commit the complaint in writing to ensure that all matters relating to the complaint are clearly documented.

- Online – [Complaints Management](#)
- Email Council aac@livingstone.qld.gov.au
- In writing by posting to:

The Chief Executive Officer
Livingstone Shire Council
PO Box 2292
YEPPOON QLD 4703

5.2 Recording of a Complaint

The complainant will be provided with formal written acknowledgement of their complaint. This may not be necessary for low complexity matters that are resolved at first contact, however the complainant should be provided with the customer reference number in each instance.

5.3 Assessing a Complaint

All complaints will undergo an assessment to determine the appropriate course of action. Complaints will be assessed against the following criteria:

- Is the matter an administrative action complaint?

An administrative action complaint must be in relation to a matter which falls within the definition of an administrative action complaint as contained in the Administrative Action Complaint Management Policy and this Procedure. Matters that fall outside the definition of an administrative action complaint will not be investigated under this procedure.
- Has the administrative action complaint been previously dealt with?

Where the administrative action complaint matter has been dealt with by internal review the matter will not be reopened unless materials, evidence or the reasons offered by the complainant, or received by Council indicate the possibility of an error in procedure or fact which may be material to the outcome of the complaint.
- Is the complainant an affected person or acting with the authority of an affected person?

The complainant in an administrative action complaint matter must be sufficiently directly affected by the matter, rather than having only an intellectual or emotional interest in the subject.

- Is the complaint within the jurisdiction of Council to investigate?

Some matters may require referral to other external agencies for investigation. Where it is determined that a matter falls into this criteria, Council Officers will work with the external agency to determine the most appropriate course of action.

Not all administrative action complaints will be investigated or will have the investigation continued if it is reasonably determined that:

- Where the matter has been assessed, using the criteria above, to be:
 - Not an administrative action complaint; or
 - A matter that has been dealt with previously by internal review; or
 - The complainant is not an affected person or acting with the authorisation of an affected person; or
 - The complaint is not within the jurisdiction of Council to investigate.
- The complaint is frivolous or was made vexatiously (as determined by the Chief Executive Officer); or
- The complainant is seeking to revisit a previously closed matter which had undergone an internal review, without evidence of an error in procedure or fact which may be material to the outcome of the complaint.

Complaints which have been determined to not be an administrative action complaint may still be investigated as directed by the Chief Executive Officer and/or relevant General Manager/Chief Officer. Such investigations will be conducted in accordance with relevant policies, directives and/or procedures.

When the decision has been made to not investigate a complaint or to discontinue an investigation into a complaint, the complainant will be formally advised of the decision. The matter is then considered to be closed by Council.

Complaint Categories / Service Delivery Standards

Council is committed to dealing with administrative action complaints promptly and efficiently as possible. The time required to investigate and resolve a complaint may depend on the circumstances and complexities of the matter. The following is provided as a guide to the types of complaints and intended service delivery standards to resolve them. Once the complaint has been assessed you will be advised of the complexity of the complaint and decision timeframe.

Type of Complaint	Criteria	Decision Timeframe
1 - Low complexity complaints	Low complexity complaints require no investigation and can be easily addressed through the provision of information, or through negotiating a desired outcome, perhaps through face-to-face or over the phone - a written response may not be required. Low complexity complaints should be managed at the business unit level.	Up to 10 business days
2 - Medium complexity complaints	Medium complexity complaints may require some research into the matter; it might also require some negotiation/facilitated discussion with the complainants or consultation with other areas of Council. They are	Up to 30 business days

	rated a medium complexity and typically include issues that relate to a single incident or a decision. Some investigation or fact finding of the complaint issues may be required. Typically, medium complexity complaints contain a small number of issues where a written response is required.	
3 - High complexity complaints	<p>High complexity complaints are matters that are complex in nature and may comprise of a number of complaint issues; or where the complaint issues may refer to possible systemic concerns. These matters will typically involve complainants providing very detailed and lengthy background information that requires time to address.</p> <p>The matters can be of a very complex nature which may involve working with a number of business units in order to reach an outcome. Formal investigation may be required, involving assessment of information, and may involve interviews or discussions with staff and other relevant persons, including external consultation.</p>	Up to 45 business days

There may be instances where the decision timeframe may require to be extended. If an extension is necessary, the complainant is to be notified before the expiry of the initial timeframe.

5.4 Investigating a Complaint

In all instances, Council will attempt to resolve the complaint at the initial contact wherever possible. If this is not possible, or if Council assesses that the complaint is of medium or high complexity, an investigation will be undertaken.

Generally, the investigation of an administrative action complaint will be undertaken by a Council Officer senior to the original decision maker within the relevant operational area. However, in cases where this is deemed inappropriate in cases such as, but not limited to, conflicts of interest or where misconduct is alleged, the matter will be referred to the Chief Executive Officer. The Chief Executive Officer may then direct that the investigation be carried out by an independent officer or by an external investigator.

When a formal investigation is required for an administrative action complaint it will typically be carried out in the following manner:

- 1) Investigation is planned out by the investigating officer;
- 2) The investigating officer will gather information, including discussions and interviews with relevant parties and reviewing appropriate legislation, Council policies, directives, and procedures;
- 3) The investigating officer may need to interview a party to the complaint more than once to gather sufficient information or to clarify details;
- 4) The investigating officer will analyse the information gathered, document the findings and make any recommendations; and
- 5) For an internal review, the investigating officer will prepare an investigation report to be submitted to the Chief Executive Officer or relevant General Manager or Chief Officer for assessment and decision.

The investigating officer will be independent, impartial, and objective throughout the process. They will adhere to the principles of procedural fairness and natural justice when conducting the investigation and will ensure that confidentiality of the investigation is maintained to the extent that it can be reasonably achieved, subject to overarching legal requirements regarding the disclosure of information.

At the completion of the investigation, an assessment and decision should be made based on the findings as to:

- whether the complaint is substantiated /unsubstantiated /partially substantiated; and
- what remedy or remedies, if any, will be applied.

Council may consider a number of remedy options (including but not limited to):

- an explanation, such as how and why the problem occurred, and steps taken to prevent a reoccurrence;
- an admission of fault;
- a change of decision;
- the provision of a service;
- the provision of additional information;
- a correction of records;
- waiving of a penalty;
- a refund;
- rectification actions;
- a review of a policy or procedure;
- staff training or other professional developmental activity;
- an apology to the complainant; and
- any other appropriate or reasonable remedy to resolve the complaint.

Once a result and remedies have been decided, action is to be taken to resolve the complaint. If required, any necessary decision on the outcome of the investigation or approvals for remedies shall be obtained from the Chief Executive Officer or relevant General Manager or Chief Officer.

5.5 Responding to a Complaint

The Council Officer dealing with the complaint will provide the Coordinator Governance with the outcome of the investigation and reasons for the decision including:

- relevant Council policies, local laws, and other statutory provisions, such as legislation;
- findings from the investigations;
- outcomes based on the findings; and
- any remedies that will apply.

Where an internal review has been completed, a written Statement of Reasons for the decision will be provided. This statement will include:

- A summary of the complaint;
- The steps taken during the investigation;
- The outcome of the investigation;
- Reasons for the decision;
- The actions to be taken to resolve the complaint, if appropriate; and
- Follow up officer details.

The Coordinator Governance will provide a response to the complainant. The investigation report (if applicable) and details of any disciplinary action taken against a particular Council Officer will not be disclosed to the complainant.

5.6 Reviews/Appeals

If a complainant is not satisfied with the outcome of Stage 1, they may request a review. The nature of the complaint will be assessed in accordance with the complaint criteria and a review will be undertaken by an officer of Council. The Chief Executive Officer may determine a review is to be undertaken by the Coordinator Governance or a suitably qualified person external to Council.

Where the complainant remains dissatisfied with the outcome of the Internal Review (Stage 2), they may lodge a complaint with an external agency such as the Office of the Queensland Ombudsman.

Any referrals received from the Queensland Ombudsman for more information or advice will be managed by the Coordinator Governance, who will contact the appropriate section for more information if necessary.

5.7 Penalty Infringement Notices

A Penalty Infringement Notice (PIN) reviews are considered an administrative action complaint and are managed in accordance with this Procedure, with the following exceptions:

- Any request for a penalty infringement notice review must be submitted via the [Request for Withdrawal form](#) available on Council's website within 28 days from issue of an infringement notice.
- Any request for review of a penalty infringement notice should specify the grounds on which review is sought and include appropriate evidence to support those grounds.
- There is no Stage 2 tier review of a penalty infringement notice.
- Following Stage 1 tier review, if your appeal for review has been unsuccessful, the penalty infringement notice recipient will have the option to:
 - Pay the infringement notice; or
 - Elect to have the matter heard in the Magistrate's Court. You must notify Council in writing if you wish to refer the matter to the Magistrate's Court.
- Most internal reviews will be completed within 14 days; however, the process can take up to 90 days or longer if additional information is required. A letter will be sent to you advising the outcome of the review process.

Further information in relation to penalty infringement notices can found on Council's website.

5.8 Withdrawal of a Complaint

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. If a complaint is resolved or withdrawn during the complaints process it will be deemed as finalised.

5.9 Privacy and Confidentiality

Council is committed to upholding the privacy principles outlined in the *Information Privacy Act 2009*.

In protecting confidentiality, Council will ensure that the details of the complaint, including the identity of the complainant, other parties involved, the investigation and related decisions are kept confidential. However, there may be occasions where disclosure of some or all of these details to another party may be required by law.

5.10 Recordkeeping

All administrative action complaints will be recorded in Council's recordkeeping system and allocated a customer request number. When reviewing an administrative action complaint, the relevant Council Officer must keep detailed and accurate records to be registered against the customer request or relevant file. Records to be registered include:

- The complaint;
- File notes of discussions regarding the complaint;
- All correspondence; and
- Any documents relating to the review, including recommendations, decisions, statement of reasons and outcomes.

5.11 Reporting of Administrative Action Complaints

An administrative action complaint register will be maintained by the Coordinator Governance. As per the requirements of the *Local Government Regulation 2012* a summary of administrative action complaints for the year will be published in Council's Annual report.

Quarterly reports will be provided to the Executive Leadership Team identifying complaint trends for business improvement opportunities.

5.12 Human Rights

All Council Officers must consider a person's human rights when actioning administrative action complaints and ensure their decisions are compatible with the *Human Rights Act 2019*.

6. Changes to this Procedure

This Procedure is to remain in force until otherwise amended/replaced or other circumstances.

7. Repeals/Amendments

This Procedure repeals the former Livingstone Shire Council Procedure titled 'Administrative Action Complaint Management Procedure (v2.1).'

Version	Date	Action
1.0	24/06/2014	Approved
2.0	13/06/2018	Amended Procedure Approved
2.1	30/11/2018	Administrative Amendments – reflect organisational restructure
3.0	13/08/2024	Amended Procedure Approved – full review undertaken

ANDREA ELLIS
CHIEF FINANCIAL OFFICER

Schedule 1 Administrative Action Complaint Management Flowchart
(excludes Penalty Infringement Notices)

