

Administrative Action Complaint Management Policy

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Responsible Officer	Manager Development and Governance	Date Approved:	17/11/2021
Review Officer:	Manager Development and Governance	Review Due:	17/10/2025
Author:	Senior Compliance Officer	Commencement:	17/11/2021

1. PURPOSE

To provide a framework for investigation and resolve of administrative action complaints received by Council in accordance with requirements under the *Local Government Act 2009* (Qld) (LGA) and *Local Government Regulation 2012* (Qld) (LGR).¹ This policy should be read in conjunction with Council's *Administrative Action Complaint Management Procedure*.

2. SCOPE

This policy applies across Council to all complaints received by Council.

For the purposes of this policy, an administrative action complaint is:

- an expression of dissatisfaction with the quality of service Council has provided, or the failure to provide a service; or
- any form of misconduct by employees or agents.

Administrative matters do not include:

- Requests for information
- Requests for service
- Suggestions
- Enquiries
- Petitions
- Comments submitted during a formal consultation or negotiation processes
- Councillor conduct

The following complaints will not be managed under this policy:

- Corruption complaints that are required to be dealt with under the *Crime and Corruption Act 2001* (Qld);
- Competitive neutrality complaints;
- Public Interest Disclosures (PIDS) made under the *Public Interest Disclosure Act 2010* (Qld);
- Internal complaints relating to employee conduct (i.e., Code of Conduct matters) will be actioned in accordance with the relevant policies;
- Social media comments.

¹ See *Local Government Act 2009* (Qld) s 268(1). See also *Local Government Regulation 2012* (Qld) s 306.

3. POLICY STATEMENT

Council recognises that effective complaints management is integral to good customer service and therefore values receipt of all complaints. While Council encourages a proactive approach to complaints management, the objective of the administrative action complaints process is to ensure that the correct legislation, policies and procedures are followed to arrive at lawful and reasonable decisions.

The complaints management process governed by this policy aims to:

- Be fair and objective. All complaints are considered on their facts and the principles of natural justice are observed;
- Support continuous improvement. Where applicable, the outcomes from the complaints management process are applied to improve business operations, policies and procedures;
- Be open and accountable. The decisions and outcomes regarding a complaint are made available to the affected person, subject to any applicable statutory provisions;
- Be accessible and simple to understand. The process facilitates feedback from the community in a form that encourages participation.

3.1 PRINCIPLES

Mareeba Shire Council (Council) will endeavour to ensure that:

- All complaints are treated with appropriate respect for the confidentiality and privacy of the parties involved;
- Any affected person who is dissatisfied with a decision or action of Council can easily lodge a complaint;
- Complainants are provided with information on the complaints process via the Council website including information about how to make a complaint and how complaints are managed;
- All complainants will be offered assistance in lodging a complaint;
- Each complaint is recorded and initially assessed in terms of its priority, complexity and degree of urgency;
- Complaints will be responded to as quickly as possible and in accordance with the timeframes set out in the *Administrative Action Complaint Management Procedure*;
- Complainants will be informed of the complaint outcome, decision and reasons for the decision. The complainant will also be provided information about available review options.
- Complainants will not suffer any reprisal from Council;
- Complaints are monitored adequately toward continuous improvement of Council services and processes.

Mareeba Shire Council is committed to managing all complaints quickly and efficiently; the objectives being 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 overall service delivery; and
- Ensure that complaints are responded to in a timely manner.

Council will not tolerate abusive or disrespectful behaviour towards Council employees from any person involved in the complaint management process. Similarly, Council will not tolerate unreasonable complainant

conduct where such conduct impacts adversely upon Council's ability to effectively and efficiently perform its functions. Unreasonable complainant conduct as defined will be handled under a separate policy.²

3.2 MAKING A COMPLAINT

A complaint may be made:

- In person to a Customer Service Officer located at one of Council's Customer Service Centres
- By telephone to Council's general service number: 1300 308 461
- In writing by letter to:
Chief Executive Officer
Mareeba Shire Council
PO Box 154
MAREEBA QLD 4880
- By email to: info@msc.qld.gov.au

All complaints will be lodged in Council's Complaints Management System at the time of receipt and, for complaints received in writing or via email, an acknowledgement will be sent within five (5) working days of receiving the complaint.

Council acknowledges that in certain circumstances, a person may prefer to remain anonymous when making a complaint. While anonymously lodged complaints may compromise the quality of the investigation, Council respects this right and will investigate all complaints received in accordance with this policy.

3.3 LANGUAGE ASSISTANCE

If language assistance is required to communicate with Council, support is available for people from non-English speaking backgrounds by calling the National Translating and Interpreting Service (NTIS) on 13 14 50. Advise the NTIS of the preferred language and ask to speak with Mareeba Shire Council on 1300 308 461.

3.4 LODGING A COMPLAINT ON BEHALF OF ANOTHER PERSON

If an affected person is unable to lodge a complaint personally, due to poor health, distance, language, legal or other reasons, the complaint may be lodged by another person or agent on their behalf.

An officer who receives a complaint will take all reasonable steps to confirm that the person claiming to act on behalf of the affected person has the appropriate authority to do so. Written authorisation by the affected person must be provided for more serious complaints or matters that may involve disclosing personal information.

If a complaint is formally lodged by an authorised agent, such as a solicitor or accountant acting on behalf of the affected person, responses will be provided directly to that agent.

3.5 ACCESS TO COMPLAINTS INFORMATION

Once finalised, summary records of complaints that have not been assessed as being about a frivolous matter or as having been made vexatiously and that would not be governed by the *Public*

² See Council's *Unreasonable Complainant Conduct Policy* and associated procedure instruments.

Interest Disclosure Act 2010 (Qld) may be made accessible. Access to information will be governed by the *Right to information Act 2009* (Qld) and the *Information Privacy Act 2009* (Qld) and information disclosed will not be attributable to specific individuals or prejudice an individual's right to privacy. The information may be available:

- at Council service centres;
- on Council's web site.

3.6 RESPONSIBLE PERSONS

Managers and relevant employees will receive training on how to handle complaints that they may receive. More detailed training, such as training in ethical decision-making, investigations/interviewing techniques, and Council's complaint management process, will be provided to employees expected to play a more active role in resolving complaints. This Policy will be published on Council's website.

4. REPORTING

The Manager Development and Governance will provide regular performance reporting to Council's Executive Management Team (EMT) as part of its continuous improvement programs.

The following information will be provided to EMT on a quarterly basis:

- number of complaints per month and year;
- time taken to complete complaints;
- trends and significant outcomes.

In addition, the following information will be provided in Council's Annual Report:

- Council's commitment to dealing fairly with complaints;
- a statement about how Council has implemented its complaints management process, including an assessment of its performance in resolving complaints;
- the number of complaints made in the financial year;
- the number of complaints resolved in the financial year;
- the number of complaints not resolved in the financial year;
- the number of complaints not resolved in the financial year that were made in the previous financial year.³

5. DEFINITIONS

Administrative action complaint is a complaint that:

- (a) is about an administrative action of a local government, including the following,
 - i. a decision, or a failure to make a decision, including a failure to provide a written Notice of Outcome (statement of reasons) for a decision;
 - ii. an act, or a failure to do an act;
 - iii. the formulation of a proposal or intention;
 - iv. the making of a recommendation; and
- (b) is made by an affected person.

³ See *Local Government Regulation 2012* (Qld) s 187.

Affected person is a person who is apparently directly affected by an administrative action of Council.⁴

Competitive neutrality complaint is a complaint that:

- (a) relates to the failure of a local government to conduct a business activity in accordance with the competitive neutrality principle; and
- (b) is made by an affected person.⁵

Complaint is an expression of dissatisfaction, orally or in writing, by a person who is directly affected by an administrative action of Council or its employees (including contractors and volunteers), including a failure to take action.

Enquiry is a request for clarification, advice, information or further information about Council services, policies or procedures. Enquiries can usually be resolved in a one-off communication.

Frivolous complaint shall mean a complaint that is considered either minor, lacking in substance or without merit and therefore not worthy of any further action.

Inappropriate conduct is conduct that is not appropriate for a representative of a local government but is not misconduct. Types of conduct that comprise inappropriate conduct include:

- failing to comply with Council's *Employee Code of Conduct*;
- not following procedures and/or behaving in an offensive or disorderly manner.

Misconduct is conduct that affects the performance of a person's duties. It represents a breach of trust, misuse of information or a failure to comply with the principles of the *Local Government Act 2009* (Qld).

Misconduct is the conduct of a person that meets any of the following criteria:

1. adversely affects the honest and impartial performance of the individual's responsibilities;
2. is a breach of the trust placed in the person;
3. is a misuse of information or material acquired by the individual whether for personal benefit or the benefit of someone else;
4. is a repeat case of inappropriate conduct;
5. in the case of a councillor, involves a failure by the councillor to notify Council of alleged misconduct, material personal interest or conflict of interest of another councillor.

Official misconduct is conduct that could, if proved, be:

1. a criminal offence; or
2. serious enough to justify the dismissal of the person from their position.

Procedural fairness is concerned with the procedures used by a decision-maker rather than the actual outcome reached. It requires that a fair and proper procedure be used when making a decision. A decision-maker who follows a fair procedure is more likely to reach a fair and correct decision.

The rules of procedural fairness require:

- (a) a hearing appropriate to the circumstances;
- (b) lack of bias;
- (c) evidence to support a decision; and
- (d) inquiry into matters in dispute.

Queensland Ombudsman is an independent complaint investigation agency.

⁴ See *Local Government Act 2009* (Qld) ss 268(1)-(3).

⁵ See *Local Government Act 2009* (Qld) s 48. See also Council's *Competitive Neutrality Complaint Management Policy*.

Regional Conduct Review Panel is a body, created under the *Local Government Act 2009* (Qld), that is responsible for hearing and deciding a complaint of misconduct by a councillor.

Vexatious complaint shall mean a complaint, which is considered to be made maliciously, regardless of its merits, primarily to embarrass, annoy or place an unreasonable burden on a respondent, and therefore not worthy of any further action.

6. RELATED DOCUMENTS AND REFERENCES

- *Administrative Action Complaint Management Procedure* (MSC)
- *Competitive Neutrality Complaint Management Policy* (MSC)
- *Councillor Code of Conduct* (MSC)
- *Crime and Corruption Act 2001* (Qld)
- *Employee Code of Conduct* (MSC)
- *Local Government Act 2009* (Qld)
- *Local Government Regulation 2012* (Qld)
- *Public Interest Disclosure Act 2010* (Qld)
- *Public Sector Ethics Act 1994* (Qld)
- *Unreasonable Complainant Conduct Policy* (MSC)
- *Unreasonable Complainant Conduct Procedure* (MSC)

7. REVIEW

It is the responsibility of the Manager Development & Governance to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every four (4) years or as required by Council.