

ADMINISTRATIVE ACTION COMPLAINT MANAGEMENT PROCEDURE

1. Scope

The Administrative Action Complaint Procedure (this 'Procedure') applies to all Livingstone Shire Council staff responsible for receiving and investigating Administrative Action Complaints.

2. Purpose

The purpose of this Procedure is to 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

Right to Information Act 2009

Related documents

Code of Conduct

Public Interest Disclosure Policy

Public Interest Disclosure Procedure

Reporting Official Misconduct Policy

Reporting Official Misconduct Procedure

Right to Information Policy

Privacy Policy

4. Definitions

To assist in interpretation, the following definitions shall apply:

AAC	Administrative Action Complaint.
Administration Action Complaints	As per s268(2) of the <i>Local Government Act 2009</i> . 'An <i>administrative action complaint</i> is a complaint that- (a) is about an administrative action of a local government, including the following, for example- (i) a decision, or a failure to make a decision, including a failure to provide a written statement of reasons

	<p>for a decision;</p> <p>(ii) an act, or a failure to do an act;</p> <p>(iii) the formulation of a proposal or intention;</p> <p>(iv) the making of a recommendation; and</p> <p>(b) is made by an affected person.’</p> <p>As per s306(5) of the <i>Local Government Regulation 2012</i> in deciding if a complaint is an administrative action complaint, it is irrelevant –</p> <p>(a) how quickly the complaint was resolved; or</p> <p>(b) to which area of local government the complaint was made; or</p> <p>(c) whether the complaint was a written or verbal complaint; or</p> <p>whether or not the complaint was made anonymously.</p>
Affected Person	<p>As per s268(3), <i>Local Government Act 2009</i>.</p> <p>‘A person who is apparently directly affected by an administrative action of a local government.’</p> <p>Within this procedure an Affected Person is referred to as the “Complainant”.</p>
CEO	<p>Chief Executive Officer.</p> <p>A person who holds appointment under s194 of the <i>Local Government Act 2009</i>.</p>
Council	Livingstone Shire Council.
Executive Director or Chief Officer	A second level executive employed by Livingstone Shire Council.
Pathway	Council’s record management system.
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	<p>The principles and procedures that govern the adjudication of disputes between persons or organisations.</p> <p>The principles of natural justice are:</p> <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	<p>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.</p> <p>The principles of Procedural Fairness are:</p> <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

	<ul style="list-style-type: none"> 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

Livingstone Shire Council is committed to managing all complaints fairly, quickly and efficiently. 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 overall service delivery; and
- Ensure that AAC's are responded to in a timely manner.

5.1 What is an Administrative Action Complaint (AAC)?

An AAC is a request for review of an administrative action made by Council based on an expression of dissatisfaction by an affected person. An administrative action includes:

- A decision or an act;
- A failure to make a decision or do an act;
- The formulation of a proposal or intention; or
- The making of a recommendation.

In determining if a complaint is an AAC, it is irrelevant:

- How quickly the complaint was resolved;
- To which area of a local government the complaint was made;
- Whether the complaint was a written or verbal complaint; and
- Whether or not the complaint was made anonymously.

AAC's include:

- Complaints regarding how a previous request has been handled;
- Requests to review a decision or action made by Council;
- Complaints about the way a response has been provided by Council; and
- A failure to complete a request for service or provide a decision within designated timeframes.

5.2 What is not an AAC?

Matters that are not an AAC include:

- Customer requests;
- Reports of damaged or faulty infrastructure such as potholes or hazards, or fallen branches;
- A suggestion or proposed service improvement;
- An enquiry or request for further information;
- A follow up or further request for service that has not been completed by Council but is still within the timeframes advised to the customer;
- Petitions to Council about a particular matter;
- Comments or submissions received during formal consultation or community engagement; and
- Complaints about Councillor conduct.

Some types of complaints will generally be managed separately which may include:

- Competitive neutrality complaints;
- Corruption complaints that are required to be dealt with under the *Crime and Corruption Act 2001*;
- Public Interest Disclosures (PIDS) made under the *Public Interest Disclosure Act 2010*;
- Internal complaints relating to staff conduct (ie Code of Conduct matters) that are referred to Human Resources to be dealt with under the relevant policies;
- Complaints about Councillor conduct which will be dealt with in accordance with processes outlined in the *Local Government Act 2009*;
- Matters currently being dealt with or have been previously dealt with by a court, tribunal or external complaints agency;
- Disputes about legal liability;
- Social media comments; and
- Customer requests.

5.3 Administrative Action Complaint Management Framework

Stage 1 – Initial Complaint

Council will make every effort to resolve the complaint and the point of first contact however if this cannot be achieved the initial complaint will be investigated by a Council Officer and may include talking to those involved and auditing documentation. Once the investigation is complete the Complainant will be advised of the decision and any remedy action.

Stage 2 – Internal Review

If the Complainant is not satisfied with the outcome of Stage 1, they may request an internal review. This will include an independent review of the original investigation. At the conclusion of this investigation the complainant will be advised of the decision and provided with a Statement of Reasons for the decision.

Stage 3 – External Review

If the Complainant is not satisfied with the outcome of Stage 2, they may lodge a complaint with the Queensland Ombudsman or use other external review processes through the courts.

5.4 Who Can Make a Complaint?

Any affected person can make an AAC.

Complaints made on behalf of another person will be accepted, however evidence must be provided that the person lodging the complaint is authorised to do so and to receive communication about the complaint investigation.

An affected person may make a complaint anonymously. In these instances it is imperative for the affected person to provide sufficient information for the matter to be investigated. The affected person should note that it will not be possible for a Council employee to clarify or seek further information from them, and it will not be possible to advise them of any decisions, and reasons for the decisions, in relation to the anonymous complaint.

5.5 Lodging a Complaint

An affected person may make an AAC in any of the following ways:

- a) Verbally – either by a telephone call to Council's call centre or by visiting Council's customer service centre.

Council's call centre number is:

- 1300 790 919

Council's customer service centre address is:

- 25 Normanby Street, Yeppoon (Town Hall)
- 7 – 9 Hill Street, Emu Park (Library)

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

- b) In writing – either mailed to the Chief Executive Officer, or via Council's enquiries email address or via Council's internet site.

The mailing address is:

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

Council's enquiries email address is:

enquiries@livingstone.qld.gov.au

Council's internet site is:

www.livingstone.qld.gov.au

5.6 Recording a Complaint

All AAC's are to be recorded on Council's workload management software (Pathway).

Many AAC's that are received may be an escalation of a previous request for service that has already been designated a customer reference number.

Whether newly created or an addition to an existing entry, the receiving officer will make a notation of the complaint type keyword within the 'Complaint' field of the Pathway entry.

For recording purposes the 'Complaint' category keyword must be entered verbatim and will be selected from the following (most relevant):

- **TIME:** Dissatisfaction over time taken for Council to provide a service;

- **QUALITY:** Dissatisfaction over the quality of service provided by Council;
- **PERSON:** Dissatisfaction over the actions of a Council Officer;
- **SAFETY:** Dissatisfaction over an issue related to safety or risk;
- **COMMUNICATION:** Dissatisfaction over the communication (or lack thereof) of Council; or
- **EXPECTATION:** Dissatisfaction over expectation of the service of Council.

Where appropriate, 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.

All action taken on a complaint by any Council employee must be recorded against the specific complaint within Pathway.

AAC statistics are included in Council's statutory reporting requirements for the annual report.

5.7 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 AAC?
 - An AAC must be in relation to a matter which falls within the definition of an AAC as contained in the Administrative Action Complaint Management Policy and this procedure. Matters that fall outside the definition of an AAC will not be investigated under this procedure.
- Has the AAC been previously dealt with?
 - Where the AAC 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 AAC 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 employees will work with the external agency to determine the most appropriate course of action.

Not all AAC's will be investigated or will have investigation continue on them if it is reasonably considered that:

- Where the matter has been assessed, using the criteria above, to be:
 - Not an AAC ; 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 CEO or relevant Executive Director or Chief 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 AAC may still be investigated as directed by the CEO and/or relevant Executive Director or 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.

5.8 Complaint Categories / Service Delivery Standards

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.

Type of Complaint	Criteria	Decision Timeframe
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
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 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.	Up to 30 business days
High complexity complaints	High Complexity Complaints are matters where there are a large 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. 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.	Up to 45 business days

5.9 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 determines that the complaint requires investigation, any investigation will be conducted in accordance with the principles of Natural Justice and Procedural Fairness.

Generally AACs will be investigated by an officer more senior to the original decision maker within the operational area in which the original decision was made. However 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 CEO. The CEO may then direct that the investigation be carried out by an independent officer or by an external investigator.

Investigating an AAC will typically be carried out in the following manner:

1. Investigation is planned out by the investigating officer;
2. The investigating officer interviews relevant parties involved in the complaint and reviews appropriate legislation, Council policies, directives and procedures;
The investigating officer may need to interview a party to the complaint more than once to gather the required amount of information or to clarify information;
3. The investigating officer will analyse the information gathered and document the results of the investigation and any recommendations; and
4. During an internal review, an investigation report outlining all information collated may need to be prepared and submitted to the CEO or relevant Executive Director or Chief Officer for assessment and decision.

5.10 Resolving a Complaint

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

- Whether the complaint is substantiated /unsubstantiated /partially substantiated;
- 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;
- any other appropriate or reasonable remedy to resolve the complaint.

Once a result and recommendations 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 actions shall be obtained from the CEO or relevant Executive Director or Chief Officer.

Once actions have been approved to resolve, the complainant will be advised of the outcomes of the investigation and reasons for the decision. Where appropriate (such as internal review), 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;
- Follow up officer details; and
- Review rights, if appropriate.

The complaint finalisation, decision and associated correspondence will be recorded within Council's workload management software against the specific complaint.

The details of any employees who may or may not have been involved through the investigation process, and/or any details of any disciplinary action taken against a particular employee will not be disclosed to the complainant.

5.12 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 CEO 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.

5.13 Privacy and Confidentiality

Council takes very seriously its obligations and responsibilities contained within the privacy principles of the *Information Privacy Act 2009*.

Details of any complaint, the identity of a complainant and other parties to the complaint, the investigation and decisions made in relation to the complaint are kept confidential. However, there may be occasions where disclosure of some or all of these details to another party is required by law.

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 (v1).'

Version	Date	Action
1	24/06/2014	Approved
2	13/06/2018	Amended Procedure Approved
2.1	30/11/2018	Administrative Amendments – reflect organisational restructure

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Schedule 1 Administrative Action Complaint Management Flowchart

