

YARRABAH ABORIGINAL SHIRE COUNCIL



Document Control and Version History

Document Reference Number:

Version Number:

1

Officer Responsible for Review:

Corporate Governance Officer

Review Frequency:

Reviews will be carried out as directed by the Chief Executive Officer

Version Number	Approval Date	Resolution Number	Signature	Review Date	Comments
1	20/04/2015	NO 12	<i>J. Meneses</i>	01/05/2016	

AUTHORITY

Local Government Act 2009 (the Act), Section 268

Local Government Regulation 2012 (the Regulation), Section 187 and Section 306

PURPOSE AND SCOPE

Yarrabah Aboriginal Shire Council must operate in an open, transparent and accountable manner. In response to this imperative and as required under Section 268 of the *Act*, this document sets down the policy and procedures which allow Council to deal effectively and efficiently with complaints regarding its administrative actions.

Section 306 of the *Regulation*, requires that Council adopt by resolution:

- (a) A complaints management process that effectively manages complaints from their receipt to their resolution; and
- (b) Written policies and procedures supporting the complaints management process.

Under Section 187 of the *Regulation*, Council's annual reports must include a statement about Council's commitment to the fair resolution of administrative action complaints and statistics which indicate its success in doing so.

The complaints process outlined in this document does not apply to a complaint:

- (a) About competitive neutrality issues that could be made under Chapter 3 of the *Act*;
- (b) About official misconduct that should be directed to the Crime and Corruption Commission;
- (c) About councillor misconduct or inappropriate conduct;
- (d) Made under the Public Interest Disclosure Act 2010;
- (e) About a development decision made under the Sustainable Planning Act 2009.

DEFINITIONS

In this document an *administrative action complaint* is a complaint that is about the way in which administrative actions were or were not carried out. It 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 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.

An *affected person* is a person who is apparently directly affected by an administrative action of a local government.

A customer request is not an administrative complaint. However, a customer's concern about inaction in respect to a customer request is taken to constitute an administrative complaint.

A complaint may be made orally or in writing.

RESPONSIBILITY

All Councillors and Council employees must comply with this policy and are responsible for giving effect to it.

STATEMENT OF PRINCIPLE

Yarrabah Aboriginal Shire Council acknowledges the right of customers to provide feedback, both positive and negative, on services it provides and the decisions it makes. It also understands that there are occasions when people may wish to lodge a complaint.

Council will deal with complaints fairly, promptly and professionally and is committed to building the capacity of staff to effectively manage complaints in an environment of continuous improvement.

POLICY STATEMENT

Council will at all times endeavour to meet local government and community expectations by being an open and accountable organisation, dealing fairly and reasonably with customers and having well trained and supported staff.

The complaints process is to be readily accessible to and able to be understood by all people with an interest in it including those with special needs. Information about the complaints process is to be available on Council's website, at its customer service centre, on rate notices and highlighted within its annual reports.

Effective complaints management is fundamental to the provision of the quality services that Council aims to provide and enables a mechanism for obtaining feedback from customers and resolving disputes. To this end, Council recognises that errors and mistakes can be made and all reasonable attempts will be made to rectify failures to ensure the maintenance of community confidence.

Council will ensure any necessary staff training is provided including training in the areas of:

- (a) Familiarity with this document;
- (b) Complaint investigation;
- (c) Conflict management;
- (d) Customer service skills.

Council is committed to effectively handling complaints promptly and professionally and takes seriously all complaints via all methods of delivery, including verbal and anonymous complaints.

All complaints received by Council will be considered on their merits and addressed in an equitable and unbiased manner through the application of an established complaints process.

Complainants will have access the complaint management system free of charge and will not suffer any reprisal as a result of making a complaint.

Complainants will be able to access support to make a complaint if and where necessary.

Complaints may be categorised by Council's Chief Executive Officer (CEO) for the purpose of prioritisation, reporting, effective resolution, and ensuring legislative compliance.

Administrative Action Complaints Policy and Procedure

Where possible, a potential complainant and a Council officer should attempt to resolve disagreement – working an issue through to obtain an outcome that is satisfactory to both parties – prior to resort to the formal complaints process.

Receipt of each complaint will be acknowledged.

Complainants will be treated courteously; and will be kept informed of the progress of the handling of their complaint, the timing of its handling and the outcome of their complaint.

All complaints will be treated with appropriate respect for the confidentiality and privacy of the complainant and officers involved. Publication of information relating to complaints about Council officers will be limited to that prescribed by legislation.

Council will co-operate fully with any investigating authority charged with dealing with a complaint, e.g. the Crime and Corruption Commission and the Queensland Ombudsman.

Council maintains a commitment to continual improvement in its business process and relationships with customers. Continual improvement will be achieved through effective and accountable analysis, recording and reporting on complaints.

Where multiple complaints are received about the same or similar issue, an effective and efficient method of dealing with them will be determined.

A Council staff member who attempts to informally resolve a complaint or who manages Council's formal response to a complaint must be senior to any person who is the subject of the complaint (if the complaint is about an officer) and senior to the person directly responsible for providing the service (if the complaint is about that service). The only exception to this is for a complaint made about the CEO, in which case the matter will be referred to the Mayor in the first instance.

Council's systems, this policy and associated guideline will be reviewed periodically to maintain best practice.

POLICY AND PROCEDURE REVIEW

Council's Corporate Governance Officer will be responsible for monitoring the effectiveness of this policy and procedures and will suggest changes to the CEO as appropriate.

Reviews of both policy and procedure will be carried out by the Corporate Governance Officer as directed by the CEO.

COMPLAINTS PROCEDURE

Council will employ an eight-step process in the management of administrative action complaints:

1. Pre-Complaint Actions

When a customer queries the actions of a service area or otherwise indicates that he or she may be considering making a complaint he or she will be encouraged to contact the relevant Council service area to discuss the matter.

However, a customer who is in some way dissatisfied with the performance of a service area is not required to establish or re-establishing contact with that service area as a pre-condition to making a formal complaint.

2. Receiving Complaints

Lodgement Options

Customers may make an administrative action complaint in any of the following ways:

- Telephoning Council reception on (07) 4056 1920;
- Sending a fax to (07) 4056 9167;
- Visiting or writing to Council at 56 Sawmill Road, Yarrabah, Queensland 4871;
- Emailing Council at ceo@yarrabah.qld.gov.au .

The officer receiving the complaint should, where possible, obtain at least the following details:

- Name and contact details of the complainant;
- Basic details of the complaint (when, where, what and who it involves);
- The complainant's desired outcome.

It is also desirable that the complainant provide:

- As much detail as possible about the matter;
- Details of any loss or detriment suffered;
- The name of any other agencies or authorities to which the matter has already been reported;
- Supporting information including photos and contact details of anyone else who can substantiate the complaint.

Assistance for those Lodging Complaints

Council will ensure administrative action complaints are received with sensitivity and take into account any special needs of the complainant.

Receipt of Anonymous Complaints

Council will accept anonymous administrative action complaints but Council officers will advise the complainant that information such as the complainant's name and contact details would assist Council deal with their complaint effectively.

Referral to CEO or Mayor

Council has by resolution delegated to the CEO the power to select and appoint a person to be a complaints officer for a specific complaint excepting the case of a complaint about the CEO for which case the Mayor has the delegation.

In the first instance, all information that may constitute an administrative action complaint will be referred to the CEO or Mayor in accordance with the policy statement above.

Having received information, the CEO or Mayor will refer it on to the officer selected to act as Complaints Officer for the particular instance concerned.

Officers selected to act as Complaints Officer will usually be internal to Council. However, an external officer may be appointed if the complaint concerns an administrative action undertaken by one of the entities identified below:

- Council at a meeting; or
- The Mayor acting under statutory or delegated authority; or
- The CEO.

3. Recording Information in Complaints Database

The Complaints Officer will record the information in Council's complaints database and then manage the complaint until the process is concluded.

It is essential that every action and decision made regarding the complaint is recorded in the complaints database.

The Complaints Officer will contact the complainant either by phone, email or letter acknowledging receipt of his or her complaint, unless this is not possible (as in the case of an anonymous complaint) or in circumstances where it is immediately obvious that the matter is not about an administrative action complaint for progressing under this complaint procedure. In the latter case, the complainant will be sent correspondence explaining Council's actions or decisions regarding his or her complaint.

Note that assessment or further investigation may be needed to determine if the matter is about an administrative action complaint.

4. Assessing Information

Assessment is to be completed within five business days from receipt of the complaint. The Complaints Officer will coordinate the collection of sufficient information to allow assessment. This should normally occur in consultation with the director or manager of the relevant service area, unless there is a specific reason why such consultation cannot occur (such as when the complaint may involve those people).

Consideration should always be given to contacting the complainant, preferably by telephone, to seek further clarity about the particulars of their complaint and their desired outcome.

The following assessment criteria may assist Council officers to determine the type of complaint and the best process to use to resolve the matter.

Is the Matter a Complaint?

The matter is not a complaint if it relates to:

- A request for information about Council services, policies or procedures;
- A request for service or action to be taken in relation to a service or product provided by Council, such as branches trimmed on a footpath tree or a rubbish bin fixed;
- A report of damaged or faulty infrastructure or hazards, such as potholes or fallen branches;
- A suggestion for a proposed service or product improvement, such as additional kerbside clean-up events;
- An enquiry or request for clarification or more information, such as a question about the environment levy on a rates bill;
- Follow-up or a further request for service that has not been completed by Council but for which an advised timeframe has not expired;
- A petition to Council about a particular matter;
- A matter that is outside of Council's jurisdiction.

Is the Person an Affected Person?

If the person making a complaint is not directly affected by the matter – as opposed to having only an intellectual or emotional interest – then he or she is not an affected person.

However, even if a complainant is not deemed to be an affected person (with the result that any complaint made by the person is not an administrative action complaint as defined), consideration should be given to factors that may still warrant the matter being handled under this procedure, such as the impact of the issue on the Community or Council.

What Type of Complaint is Being Made?

The following table outlines some complaint types and suggested action for resolution. Some complaints may not need to be referred on for resolution but may be dealt with immediately by the Complaints Officer with the assistance of the relevant Council business unit.

Complaint type	Suggested action
Administrative Actions	The Complaints Officer, with the assistance of the relevant director or manager, (and any other person deemed necessary), should determine an appropriate response.
Competitive Neutrality	These complaints will be referred to the Chief Executive Officer for review in accordance with the <i>Act</i> and <i>Regulation</i> .

Officer Conduct (not Official Misconduct) – including Code of Conduct Matters	These will be referred to Human Resources and will be dealt with under the relevant Council policies
Official Misconduct	These complaints will be directed to the CEO for initial review and, where appropriate, referred on to the Crime and Corruption Commission to be dealt with under provisions of the <i>Crime and Misconduct Act 2001</i> .
Public Interest Disclosure	Complaints made under the <i>Public Interest Disclosure Act 2010</i> will initially be referred to CEO.
Privacy/Right to Information	These complaints will be directed to the Corporate Governance Officer to be dealt with in accordance with the <i>Right to Information Act 2009</i> .

Any matters that are assessed as not being complaints (such as service requests) should be referred back to customer service personnel to be dealt with as per Council's usual process for dealing with such issues.

5. Formulating a Resolution

This stage is normally to be completed within 30 business days of receipt of the complaint. However, extensions of time may be granted by the CEO. Requests for extensions must be made by the Complaints Officer in writing and must include the reasons for the requested extension.

Only one extension of time may be approved and then only before the expiry of the initial 30 days after receipt of the complaint. In all cases, approved extensions of time may not be for more than an additional 60 business days for a maximum total of 90 business days between receipt of complaint and its resolution, that is, the completion of this stage of the process.

Other than for anonymous complaints, the complainant will be informed of any extension of time and the reasons prior to the elapsing of the initial 30 business days.

The information gained during the assessment process should be used to determine an appropriate resolution to a complaint.

Appropriate resolution options include, but are not limited to:

- No action

Council may decide to take no action (other than checking understanding of the complainant) if the issue has been resolved or the situation complained about no longer exists.

In some instances, it may be determined (following a thorough assessment) that an administrative action complaint should not be acted upon or action discontinued if:

- The circumstances clearly show that a complaint is made frivolously, without grounds, lacking in substance, or with the intent to harass;
- The complainant seeks to revisit a previously concluded complaint when no new evidence or material is provided;
- The complainant displays aggressive or abusive behaviour, or threatens or uses physical violence against themselves, a Council employee, or property.

In certain situations it may be clear that despite the dissatisfaction expressed by the complainant, the issue complained about is the result of a routine Council process and the complainant has not identified any departure from Council policies, procedures or relevant legislation. For example, a person may complain about their rates being too high but in the absence of any indication that a mistake has been made, no further action is required, other than possibly an explanation as to how rates are calculated. Council may even develop a standard response in such cases. However, in the first instance, each complaint should be assessed appropriately on an individual basis.

- **Management Action**

If there is sufficient information, Council may respond to a complaint by providing an explanation, admitting a fault, making an apology, changing a decision, undertaking to review a policy or procedure, reimbursing costs, providing financial compensation, waiving a debt or penalty, providing a service or information, correcting a record or taking any other action within its power to take in order to resolve the complaint.

For example, a customer may complain that despite several requests, his or her address has not been changed in Council records. A check reveals that a technical error has occurred and once corrected, the complainant's details are changed successfully. In this case the complaint is valid but the situation can be rectified immediately.

- **Investigation**

If there is insufficient information, the matter is complex or serious or there is no agreement on the circumstances, then Council may have the complaint investigated. This may be done internally, or when a complaint is more complex, serious or sensitive, then Council may choose to have it done externally.

Investigations will be conducted in a fair, objective and timely manner in accordance with the principles of natural justice and procedural fairness.

The following process will be used for investigations:

- Gather and analyse information;
- Formulate decisions and recommendations;
- Write a report detailing the above;
- Submit report to Complaints Officer for approval.

Investigations can consider oral evidence (from the complainant and relevant witnesses), documentary evidence, technical or professional advice, site inspections, equipment or any other necessary source of relevant information.

The outcome of the investigation will determine the most appropriate response from amongst the other response options identified.

If during an investigation it becomes clear that the complaint is not an administrative action complaint the investigation should be discontinued and the complaint referred or otherwise dealt with appropriately.

- **Mediation or Conflict Resolution**

In situations where a relationship between Council or an officer and the complainant has broken down then Council may wish to enter into mediation or a conflict resolution process.

Once approved by the Complaints Officer, the appropriate resolution to the complaint should be implemented. In some cases it may be necessary or prudent to discuss the chosen course of action with the complainant before implementing it.

6. Responding to the Complainant

The Complaints Officer should regularly update the Complainant and advise of any changes to the process. Such updates can be by phone, email or letter, as appropriate. Information about all updates are to be recorded in the complaints database.

At the end of the process and within five business days of the completion of the *Formulating a Resolution* stage of this process, the Complainant should be advised in writing of:

- The process followed by Council to resolve the complaint;
- The outcome (including whether or not the complaint was sustained and any proposed remedies) and the reasons for it;
- The complainant's options for review (see Stage 7 of the Complaints Procedure below) or referral to an external agency (e.g. the Queensland Ombudsman) if he or she does not agree with the outcome.

Where possible, complainants should be responded to by Council and not some other entity.

7. Reviewing the Process Applied to a Complaint

If the Complainant is dissatisfied with the outcome of the complaint process or the process itself, he or she can request a review.

Requests for a review will go to the CEO or Mayor in accordance with the Policy Statement above.

The decision as to whether or not to conduct a review and the resources to be applied will be at the discretion of the CEO or Mayor and will be made following consideration of the reasons the complainant is requesting the review. Generally, a review will only be conducted if the complainant provides significant new evidence supporting his or her original complaint or provides information suggesting a flaw in the process followed by Council in initially resolving and responding to the complaint.

If a decision is made that no review will be conducted, the CEO or Mayor will, within five business days of the request for a review being received, write to the complainant and advise that this is the case, providing the reasons for the decision and again outlining options for referral to an external agency.

If a decision is made that a review should be conducted, the CEO or Mayor will refer the matter to an officer selected to act as Complaints Officer who will repeat the Complaints Procedure from Stage 3 above and with the date of receipt of the request for a review serving as the date of receipt of a complaint for the purpose of managing the Complaints Procedure timeline.

The Complaints Officer chosen to conduct a review will be chosen in accord with the Policy Statement above and will not be the same officer who served as Complaints Officer for Council's initial response to the complaint concerned. The Complaints Officer chosen to conduct a review will be as senior or more senior than the officer who served as Complaints Officer for Council's initial response to the complaint concerned. As before, the Complaints Officer chosen will normally be internal to Council but may be external depending upon the nature of the complaint and the availability of suitable officers within the organisation.

As for the initial response process, it is essential that every action and decision made regarding the complaint and the review process is recorded in the complaints database.

A complaint should be formally finalised and closed at the end of the process.

8. Reporting on Council's Management of Administrative Action Complaints

The CEO will cause to be compiled a quarterly report on administrative action complaints to allow any trends or systemic issues to be identified that may inform improvements to Council services.

Council's Annual Report for each financial year will, as required by Section 187 of the *Regulation*, include:

- A statement about Council's commitment to dealing fairly with administrative action complaints;
- a statement about how Council has implemented its complaints management process, including an assessment of the performance of the processes in place;
- The number of administrative action complaints made to Council;
- The number of administrative action complaints resolved;
- The number of administrative action complaints not resolved;
- The number of administrative action complaints remaining unresolved from previous financial years.

APPENDIX A

GUIDE TO FACE-TO-FACE COMPLAINT HANDLING

It is important that initial contacts about complaints are handled well and that, in particular, complaints are seen to be accepted.

The environment in which complaints are taken – if provided face-to-face – should be private if possible and complainants encouraged to fully express their concerns.

An Officer conducting a complaints interview is to greet the complainant courteously, give his or her first name and inquire in a positive manner as to how he or she can help.

Complainants are to be treated courteously and professionally. Confidentiality is to be maintained where appropriate. An empathetic hearing is to be given and sufficient time should be made available for complainants to state their case.

For complainants with speech or hearing difficulties, officers conducting interviews should offer the use of the National Relay Service (13 36 77).

Notes on each interview are to be taken for later reference. Where appropriate, clarification of points of discussion should be sought using open-ended questions starting with “how”, “when”, “where”, “who” and “why”.

Complainants should be encouraged to suggest possible remedies to the issues they raise.

Interviewing officers must make it clear to complainants that they have been understood by summarising main points and seeking confirmation.

For cases where it is obvious that a mistake has been made by Council, interviewing officers are to offer an apology. Where it is not obvious that fault lies with Council, it may be possible for officers to express regret without accepting blame on behalf of Council.

If it is within the power of the interviewing officer to take action to immediately address a problem at the basis of a complaint, then such action should be taken.

Interviewing officers are to ensure that complainants have access to Council’s *Administrative Action Complaints Policy and Procedure* and, if necessary, should provide a copy of this document. Officers should advise complainants that this document outlines the processes which Council follows in dealing with administrative action complaints and the timeframe it commits to for doing so.

Interviewing officers should thank complainants for their feedback.

APPENDIX B

GUIDELINES FOR THE DESIGN OF REMEDIES

In the event that an administrative action complaint is upheld and it is found that some initial action of Council was incorrect – either in part or in full – Council will attempt to remedy the situation.

The following will be given consideration in attempting to identify a suitable remedy.

- 1. The selected remedy will be designed to correct the error only.*
Any remedy offered by Council will be appropriate to the complaint and, should, as far as possible, put the effected person or complainant in the position he or she would have been in had the initial action been correct. This may not be possible in all cases because of the passage of time or events. In such cases, Council will need to consider other possible remedies.
- 2. Any remedy should be fair and reasonable for both complainant and Council.*
Fairness goes beyond legal obligation. It means that in cases where there may be no legal obligation for Council to provide a complainant with a remedy, there may be a moral obligation to take steps to redress any disadvantage caused.
- 3. The selection of a remedy should be consistent with remedy selection in other instances.*
The same treatment should be provided for complainants in the same circumstances. Previously applied remedies in similar past circumstances will guide the selection of remedies in new situations subject to changes in policy which may impact relevance and appropriateness.
- 4. Remedy selection will not be influenced by Council's power or authority.*
Council must not take advantage of its position of authority (in particular its knowledge and resources) to avoid or reduce its obligation to provide a fair remedy to a complainant.
- 5. Selected remedies should be comprehensive.*
A remedy should address all aspects of the relevant complaint.
- 6. Remedy selection should be explained.*
An explanation of Council's decision regarding a remedy is to be provided to the complainant concerned.
- 7. A selected remedy is to be provided in a timely fashion.*
A selected remedy should be applied at the time of Council's formal response to a complainant (see Stage 6 of the Complaints Procedure above). Council must ensure that the effectiveness of a selected remedy is has not been diminished by the passage of time.
- 8. Mitigation of detrimental effects is preferential to inaction in circumstances where full reversal of harm is impossible.*
In some cases, it may not be possible to completely satisfy a complainant. In such cases, Council will attempt to take some action that may improve the situation for the complainant by mitigating the detriment which he or she suffered as a result of Council's actions. In such cases, consideration will be given to any suggestion for practical action made by the complainant.