

COMPLAINTS MANAGEMENT POLICY

STATUTORY POLICY



1 Scope

This policy applies to the management of all complaints regarding Rockhampton Regional Council actions, services and employees including Councillors, contractors and volunteers.

2 Purpose

The purpose of this policy is to:

- (a) Satisfy legislative obligations by establishing a complaints management process for resolving complaints;
- (b) Establish Council's commitment to ethically, fairly, transparently and compliantly manage and resolve all complaints; and
- (c) Provide a single framework for identifying, assessing, recording, managing and resolving complaints.

3 Related Documents

3.1 Primary

Local Government Act 2009

3.2 Secondary

Age Discrimination Act 2004 (Cwth)

Anti-Discrimination Act 1991

Australian Human Rights Commission Act 1986 (Cwth)

Crime and Corruption Act 2001

Criminal Code Act 1899

Disability Discrimination Act 1992 (Cwth)

Human Rights Act 2019

Industrial Relations Act 2016

Information Privacy Act 2009

Integrity Act 2009

Local Government Regulation 2012

Ombudsman Act 2001

Public Interest Disclosure Act 2010

Public Sector Ethics Act 1994

Racial Discrimination Act 1975 (Cwth)

Right to Information Act 2009

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Sex Discrimination Act 1984 (Cwth)
Work Health and Safety Act 2011
Workplace Gender Equality Act 2012 (Cwth)
and associated Regulations and Codes of Practice
 Actionable Communications Whole of Council Work Instruction
 Administrative Action Complaint Procedure
 Code of Conduct
 Code of Conduct for Councillors in Queensland
 Corrupt Conduct Policy
 Corrupt Conduct Procedure
 Councillor Acceptable Request Guidelines Policy
 Councillor Investigation Policy
 Discipline Procedure
 Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy
 Fraud and Corruption Control Plan
 Fraud and Corruption Control Policy
 Grievance Procedure
 Industrial Instruments
 Investigation Procedure
 Privacy Policy
 Public Interest Disclosure Policy
 Public Interest Disclosure Procedure
 Right to Information Policy
 Workplace Bullying, Discrimination and Sexual Harassment Policy

4 Definitions

To assist in interpretation, the following definitions apply:

Administrative Action	As defined in the <i>Local Government Act 2009</i> , includes a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision; an act, or a failure to do an act; the formulation of a proposal or intention; or the making of a recommendation.
AAC	Administrative Action Complaint An expression of dissatisfaction by a person who is directly affected by an administrative action of Council, including a failure to take action. An administrative action complaint can be in relation to: the lack of timeliness; lack of quality; lack of communication; safety/risk concern; policy or procedure not followed; or an unsatisfactory decision.
Affected Person	As defined in the <i>Local Government Act 2009</i> , a person who is apparently directly affected by an administrative action of a local government.

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CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Complaint	An expression of dissatisfaction by a customer regarding the unsatisfactory delivery of a product or service offered by Council or the unsatisfactory conduct of Council employees, Councillors, contractors and volunteers.
Complainant	The person, organisation or their representative making a complaint.
Contractor	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.
Corrupt Conduct	<p>As defined in the <i>Crime and Corruption Act 2001</i>, conduct of a person, regardless of whether the person holds or held an appointment, that fulfils each of the following elements:</p> <p>(a) Adversely affects, or could adversely affect, directly or indirectly, the performance of functions, or the exercise of powers of a UPA or a person holding an appointment;</p> <p>(b) Results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that:</p> <p>(i) Is not honest or is not impartial; or</p> <p>(ii) Involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or</p> <p>(iii) Involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and</p> <p>(c) Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</p> <p>Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that fulfils each of the following elements:</p> <p>(a) Impairs, or could impair, public confidence in the administration; and</p> <p>(b) Involves or could involve any of the following;</p> <p>(i) Collusive tendering;</p> <p>(ii) Fraudulent application for licences, permits or other authorities under an Act with a purpose or object of any of the following (however described) – protecting health or safety of persons; protecting the environment or protecting or managing the use of the State's natural, cultural, mining or energy resources;</p> <p>(iii) Dishonestly obtaining, or helping someone to dishonestly obtain, benefits from the payment or application of public funds or the disposition of State assets;</p> <p>(iv) Evading State taxes, levies, duties or otherwise fraudulently causing a loss of State revenue;</p> <p>(v) Fraudulently obtaining or retaining appointment; and</p> <p>(c) Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</p>
Council	Rockhampton Regional Council

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Council Service	Refers to basic services customers expect the Council to provide, such as sanitation, water supply, roads etc. For the purpose of this policy, a Council service does not include internal operational matters.
Councillor/s	The Mayor and Councillors of Rockhampton Regional Council, within the meaning of the <i>Local Government Act 2009</i> .
Councillor Inappropriate Conduct	<p>As defined in the <i>Local Government Act 2009</i>:</p> <p>(1) The conduct of a Councillor is inappropriate conduct if the conduct contravenes;</p> <p>(a) A behavioural standard; or</p> <p>(b) A policy, procedure or resolution of Council.</p> <p>(2) Also, the conduct of a Councillor is inappropriate conduct if;</p> <p>(a) The conduct contravenes an order of the Chairperson of a Council meeting for the Councillor to leave and stay away from the place at which the meeting is being held; or</p> <p>(b) It is part of a course of conduct at Council meetings leading to orders for the Councillor's unsuitable meeting conduct being made on three occasions with a period of one year.</p> <p>(3) For (2)(b), the conduct that led to the orders being made, taken together, is the inappropriate conduct.</p> <p>(4) However, inappropriate conduct does not include conduct that is; unsuitable meeting conduct, to the extent the conduct is not conduct mentioned in (2); or misconduct; or corrupt conduct.</p>
Councillor Misconduct	<p>As defined in the <i>Local Government Act 2009</i>:</p> <p>(1) The conduct of a Councillor is misconduct if the conduct:</p> <p>(a) Adversely affects, directly or indirectly, the honest and impartial performance of the Councillor's functions, or exercise of the Councillor's powers; or</p> <p>(b) Is or involves:</p> <p>(i) A breach of the trust placed in the Councillor, either knowingly or recklessly; or</p> <p>(ii) A misuse of information or material acquired in, or in connection with, the performance of the Councillor's functions, whether the misuse is for the benefit of the Councillor or for the benefit, or to the detriment, of another person; or</p> <p>(c) Contravenes any of the following:</p> <p>(i) An order of the local government or the conduct tribunal;</p> <p>(ii) The acceptable requests guidelines of the local government under section 170A;</p> <p>(iii) A policy of the local government about the reimbursement of expenses;</p> <p>(iv) Section 150R, 170(2), 171(3) or 175G of the <i>Act</i>.</p> <p>(2) Also, the conduct of a Councillor is misconduct if the conduct is:</p> <p>(a) Part of a course of conduct leading to the local government deciding to take action under section 150AG to discipline the Councillor for inappropriate conduct on 3 occasions within a period of one year; or</p> <p>(b) Of the same type stated in an order of the local government that if the Councillor engages in the same type of conduct again, it will be dealt with as misconduct.</p>

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	(3) For subsection (2)(a), the conduct that led to the three occasions of disciplinary action, taken together, is the misconduct. (4) It does not matter if the conduct happened outside the State.
Duty of Care	An obligation recognised by law to avoid conduct fraught with unreasonable risk of danger to others and to the organisation, in particular to reduce any vicarious liability risks.
Employee/s	Local government employee: (a) The CEO; or (b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
Frivolous Complaint	A complaint which is considered to be: (a) Made without evidence to cause annoyance; (b) Regularly focused on a trivial matter to the extent which is out of proportion to its significance and the complainant continues to focus on this matter; (c) Continually lodged to invoke a desired response; or (d) On a matter which the complainant persists in pursuing despite Council's reasonable efforts to help them specify their concerns, and/or where the concerns identified are not within the realm of Council to investigate, and/or where Council has advised the complainant that the matter has been investigated and resolved.
Industrial Instruments	Relevant Certified Agreement, Award and/or Contract of Employment.
Industrial Relations Matters	Disputes between an employee and the employer in respect to Council's certified agreements and relevant industrial instruments and matters that relate.
Information	Information in any number of forms including letters, reports/documents, facsimiles, attachments, tapes, emails, electronic media, and/or other forms of information including discussions during meetings.
Workforce Ethics Team	Workforce Ethics Team, Workforce and Governance
Maladministration	As defined in the <i>Public Interest Disclosure Act 2010</i> : An administrative action that was: (a) Taken contrary to law; or (b) Unreasonable, unjust, oppressive, or improperly discriminatory; or (c) In accordance with a rule of law or a provision of an Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances; (d) Taken: (i) For an improper purpose; or (ii) On irrelevant grounds; or (iii) Having regard to irrelevant considerations; or (e) An action for which reasons should have been given, but were not given; or (f) Based wholly or partly on a mistake of law or fact; or (g) Wrong.
OIA	Office of Independent Assessor

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Public Interest Disclosure	As defined in section 11 of the <i>Public Interest Disclosure Act 2010</i> , all information and help given by the discloser to a proper authority about a public interest matter referred to, in accordance with sections 12 and 13 of the <i>Public Interest Disclosure Act 2010</i> .
Request for Service	A customer request made to Council to take action to satisfy the needs of the customer, for example request to fill a pothole or collect a stray dog.
UPA	Unit of Public Administration As defined in the <i>Crime and Corruption Act 2001</i> , includes the following: (a) The Legislative Assembly, and the parliamentary service; (b) The Executive Council; (c) A department; (d) The police service; (e) A local government; (f) A corporate entity established by an Act or that is of a description of a corporate entity provided for by an Act which, in either case, collects revenues or raises funds under the authority of an Act; (g) A noncorporate entity, established or maintained under an Act, that: (i) Is funded to any extent with State moneys; or (ii) Is financially assisted by the State; (h) A State court, of whatever jurisdiction, and its registry and other administrative offices; and (i) Another entity prescribed under a regulation.
Vexatious Complaint	A complaint which is considered to be: (a) Made maliciously to damage a person's career or reputation, or the reputation of Council; (b) A threat of violence against others or property; or (c) Collusion between others, in an effort to discredit others or take retribution or to have an employee removed from the workplace.
Volunteer	Any person, who of their own free will, offers to undertake un-paid work for Council and is accepted as a volunteer by the CEO and/or his authorised delegates.

5 Policy Statement

Council is committed to providing a quality level of customer service that does not attract complaints. Council acknowledges the right of a person to lodge a complaint and is committed to upholding its duty of care by aiming to provide an effective resolution to all complaints received.

The objectives of this policy are to:

- (a) Provide a contemporary framework for the process of identifying, assessing, recording, managing and resolving complaints;
- (b) Ensure the complaints management process is statutory compliant, ethical, fair, objective, transparent and consistent;
- (c) Offer a complaints regime that facilitates continuous improvement of Council, its overall service delivery, systems, processes and employees;
- (d) Ensure complaints are responded to in a timely manner; and
- (e) Inform complainants of the redress available to them if they are not satisfied with a particular outcome, decision or action that directly affects them.

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Council is committed to the following complaint management principles:

- (a) Accessibility – Information about Council’s complaints process is readily available on Council’s website and complaints can be lodged in various forms (fax, email, verbally).
- (b) Client Focus – Complaints will be taken seriously and all complainants will be treated with respect, courtesy, dignity and fairness.
- (c) Confidentiality – Complaints will be treated strictly confidentially and managed in accordance with information management policies and relevant legislation.
- (d) Communication – All complaints will be managed transparently and reasons for decisions and/or actions will be provided in a timely manner.
- (e) Continuous Improvement – Council recognises the opportunity for improvement and commits to continuously enhancing its services, systems and employees.
- (f) Fair and Objective – Complaints received by Council will be reviewed on their merits and addressed in an equitable and impartial manner adhering to the principles of natural justice and procedural fairness.
- (g) Responsiveness – Council is committed to acknowledging and responding to the complaint, keeping the complainant informed as to the progress of the complaint and advising the complainant of the outcome and reasons for Council’s decision.

5.1 Assessment of the ‘Complaint’

A complaint may be received via any communication method, such as email, fax, letter, Council’s website, verbally (in person, by telephone) or any other communication method. The preferred method for receipt of a complaint is in writing, however Council does not consider comments published on social media to be complaints.

Once information is received, it will be initially assessed to establish the information is a complaint, as defined; and to determine the complaint category. Not all complaints will require a formal investigation.

Categorisation of the complaint will determine the applicable procedure to apply, including the management level to consult and liaise with, in regards to the complaint.

Ideally every effort should be made to address the complaint at the first point of contact, however if the complaint is related to:

- (a) The conduct of a Councillor;
 - (b) Of a serious nature; or
 - (c) There are possible multiple categorisations or the categorisation is unclear,
- the Workforce Ethics Team will assess and categorise the complaint.

The following is a list of complaint categories Council may receive:

5.1.1 Administrative Action Complaints

An AAC is a complaint about an administrative action of Council made by an affected person. For a complaint to be an AAC, the complainant must be an affected person.

AACs may take many forms, for example:

- (a) Complaints about Council’s services for example, a repeated complaint by an affected person about the general quality of park maintenance;
- (b) Failure to take action within a satisfactory timeframe after a request for service has been received to fix a pothole in the complainant’s street;
- (c) Complaint from a customer whose private information has been inappropriately disclosed (breach of privacy);
- (d) Complaint from an anonymous person, if sufficient information is provided to investigate the complaint; and

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(e) Referrals from outside agencies, for example, the Queensland Ombudsman.

5.1.2 Complaints other than Administrative Action Complaints

If it has been determined, that the definition of a complaint has been satisfied and the complaint is not an AAC, then it will generally fall into one of the following categories:

5.1.2.1 Complaints about Councillors, including the Mayor

Suspected corrupt conduct complaints relating to a Councillor will be directed to the CEO who will assess and refer in accordance with the *Local Government Act 2009*. Complaints of corrupt conduct will be referred directly to the CCC.

Complaints about the conduct of a Councillor; other than suspected corrupt conduct complaints; are to be made to the OIA in accordance with Chapter 5A of the *Local Government Act 2009*. Complaints about Councillor conduct may be made directly to Council, however these will be referred to the OIA for assessment.

Complaints about a Councillor's conduct includes complaints of inappropriate conduct which contravenes; a behavioural standard; or a policy, procedure or resolution of Council, including the Code of Conduct for Councillors in Queensland.

After investigating a Councillor's conduct, the OIA may refer the matter to Council to be dealt with. Unless otherwise resolved by Council, the Mayor will manage the investigation of suspected inappropriate conduct of other Councillors.

If the suspected inappropriate conduct involves; an allegation about the conduct of the Mayor; or if the Mayor is the complainant, the CEO must refer the matter to the President of the Conduct Tribunal to investigate.

5.1.2.2 Complaints about the Chief Executive Officer

Complaints about the conduct of the CEO will be directed to the Deputy Chief Executive Officer or delegate who will initially assess and manage. The Deputy Chief Executive Officer will liaise with the Mayor as required.

5.1.2.3 Public Interest Disclosure

A complaint received regarding a public interest disclosure, which identifies or alleges cases of; maladministration, corrupt conduct or the misuse of public resources or contraventions giving rise to dangers to public health and safety, the environment or to persons with disabilities, will be administered in accordance with the *Public Interest Disclosure Act 2010* and Council's Public Interest Disclosure Policy and Procedure.

5.1.2.4 Corrupt Conduct

A complaint, information or matter that involves or may involve suspected corrupt conduct will be assessed and managed in accordance with the *Crime and Corruption Act 2001* and Council's Corrupt Conduct Policy and Procedure.

The Deputy Chief Executive Officer is the CEO nominated person, under section 48A of the *Crime and Corruption Act 2001*, to manage complaints against the CEO that are reasonably suspected to involve corrupt conduct.

5.1.2.5 Internal Complaint or Grievance

An internal complaint or grievance is any type of problem, concern or complaint relating to an employee's work or the work environment. A grievance can be about any act, behaviour, omission, situation or decision affecting an employee, which the employee thinks is unfair or unjustified.

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Although not an exhaustive list, a grievance may relate to aspects of employment, such as

- (a) Workplace bullying including sexual harassment;
- (b) Workplace discrimination;
- (c) Unreasonable or lack of management action; and
- (d) Breaches of Council policy documents and legislation, for example Code of Conduct.

A complaint will not be deemed a grievance if it relates to reasonable management action, such as, but not limited to:

- (a) Setting and managing performance goals and standards including dealing with unsatisfactory performance;
- (b) Allocating work or work location in a transparent manner;
- (c) Implementing organisational changes or restructuring; or
- (d) Resolution for complaints or disputes pertaining to industrial relation matters.

Complaints that are considered a grievance will be administered in accordance with Council's Grievance and Investigation Procedures.

Council's Certified Agreement Dispute Resolution Procedure will govern complaints relating to employee industrial relations matters.

5.1.2.6 Other Matters Governed by a Statutory Review Process

A complaint that has a separate statutory review process will need to be directed to the relevant review process, in the first instance. For example:

- (a) Planning issues that can be addressed through the *Planning Act 2016*;
- (b) Competitive neutrality issues that can be addressed through the *Local Government Act 2009*;
- (c) Disputes regarding administrative decisions that can be addressed through the Queensland Civil and Administrative Tribunal; or
- (d) Disputes regarding infringement notices which can be reviewed through the Magistrate's Court.

5.1.2.7 Other

Any other type of complaint that is not within the scope of an AAC or categorised within this policy will be directed to the CEO, relevant general manager and/or Workforce Ethics Team for assessment and review.

5.2 Frivolous and/or Vexatious Complaints

Frivolous and vexatious complaints consume considerable time, resources and finances with no benefit to the community or Council. Any complaint deemed to satisfy the criteria for this complaint category will be managed in accordance with Council's Investigation Procedure.

Some examples include:

- (a) Matters either deemed to be minor, in relation to higher priorities, that are not likely to cause threat to public safety or financial loss to Council or others, for example a complaint about a person illegally parked may not be given priority unless the situation was considered dangerous.
- (b) Follow up calls about minor matters.
- (c) Rhetorical comments/questions, for example 'can't anyone at Council add up?'

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- (d) A complaint from a complainant who has consistently, over time, contacted Council about minor or the same matter/s, judged not to be a priority, resulting in unnecessary and costly consumption of Council's resources, unless the subject matter is deemed to warrant investigation.
- (e) A complainant who refuses to accept the decision of an authorised officer.
- (f) A complainant who unreasonably refuses to deal with the officer appointed to undertake the review.
- (g) A complainant who has a history of:
 - (i) Making complaints and review requests about their issue/related issues and contacting or cc'ing other government agencies, Members of Parliament, Ministers or other people and organisations.
 - (ii) Complaining about Council's or an officer's integrity or competence or taking their complaint to other forums alleging bias or corruption, because they are dissatisfied with the decision.
 - (iii) Giving forceful instructions about how their complaint should be dealt with and/or by whom.
 - (iv) Making unreasonable demands that organisational time and resources be spent dealing with their complaint.

5.3 Communications with Complainant/s

Anonymous complaints will be accepted and assessed. Council prefers a complainant to provide a name and contact details as the Workforce Ethics Team may, in some cases, invite a complainant to provide further information to assist in fully understanding the concerns, the issue/s to be investigated (if an investigation is to be undertaken) and the outcome or remedy sought in accordance with Council's Investigation Procedure.

If a person requires assistance to lodge a complaint, assistance will be provided.

Council is committed to transparency; the Workforce Ethics Team will, in a timely manner, acknowledge receipt of a complaint, keep the complainant appropriately informed of the progress of the complaint and/or investigation and outcome of the decision.

5.4 Review

A complainant will be advised of review options when notified of the outcome of their complaint. Review options may include an internal review on the merits of the complaint, undertaken at the CEO's discretion, and/or an external review by an external agency such as the Queensland Ombudsman.

5.5 Reporting on Administrative Action Complaints

Council will maintain a record of all AACs in a secured register. The Workforce Ethics Team will report on AACs in accordance with Council's Administrative Action Complaint Procedure and State legislation.

5.6 Workforce Ethics Team Responsibilities

Council's Workforce Ethics Team is responsible for:

- (a) Assessing the complaint category and actioning accordingly;
- (b) Conducting investigations into complaints deemed to require investigation;
- (c) Investigating complaints referred by the CEO, general manager or external agencies such as the Queensland Ombudsman;
- (d) Providing progress reports to senior management, identifying and advising of potential risks requiring immediate rectification;
- (e) Liaising with state government agencies as required;
- (f) Administering the complaints management process, providing formal and statistical reports, recommendations and associated administrative tasks;
- (g) Providing advice to Council departments investigating complaints;

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- (h) Facilitating educational awareness programs in relation to the Complaints Management Policy and applicable procedures;
- (i) Being the central registrar for Council's complaint registers; and
- (j) Reviewing and reporting to the CEO, senior management and Council as required on complaints.

6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) As required by legislation;
- (b) The related information is amended or replaced; or
- (c) Other circumstances as determined from time to time by the Council.

7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Chief Executive Officer
Policy Owner	Manager Workforce and Governance
Policy Quality Control	Legal and Governance



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