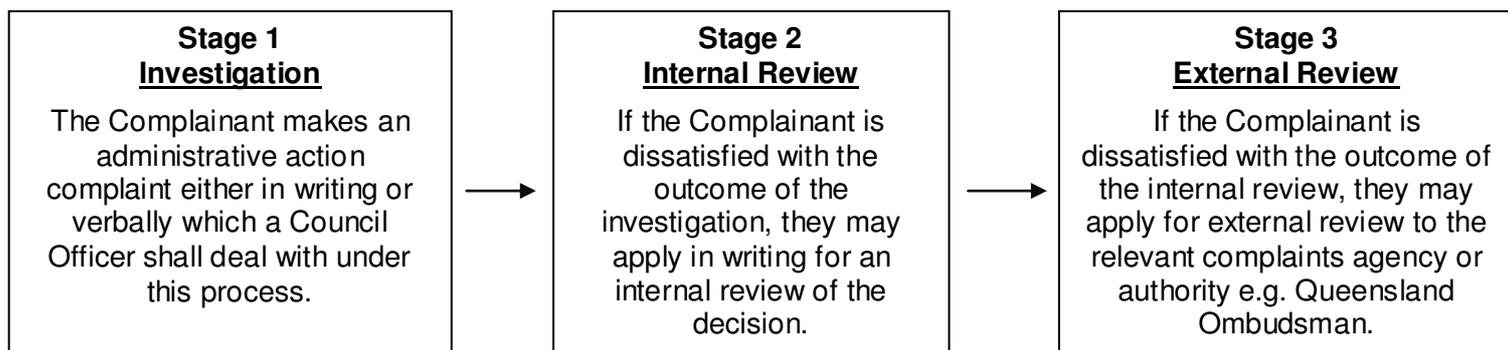


## 1. COMPLAINT HANDLING FRAMEWORK



## 2. HANDLING OF ADMINISTRATIVE ACTION COMPLAINTS

### STAGE ONE – INVESTIGATION

#### Making an administrative action complaint

- 2.1 Council's preferred method for a Complainant to make an administrative action complaint ("complaint") is via an Application for Administrative Action Review.
- 2.2 Council also accepts complaints made in the following ways:
- verbally, either by telephone or in person to a Council officer; or
  - by email to [info@whitsundayrc.qld.gov.au](mailto:info@whitsundayrc.qld.gov.au) or online via the Council's website; or
  - by letter or facsimile.

#### Process for dealing with Administrative Action Complaints

##### Written Complaints (including online, email, facsimile, letter or Application for Administrative Action Review form)

- 2.3 Upon receipt of a Complaint, the officer who receives the complaint shall register the complaint and task it to the appropriate Administration Coordinator and to the Legal and Governance Officer.
- 2.4 The Administration Coordinator shall task the complaint to the appropriate officer (usually the branch manager or team leader) for investigation.
- 2.5 The officer to whom a complaint is referred (the "investigating officer") shall perform an initial assessment of each complaint in terms of its seriousness, safety implications, whether it is an urgent, non-urgent or complex matter and whether there are any grounds to refuse to investigate the complaint (see 2.23 to 2.25 below).
- 2.6 The investigating officer shall send a letter (***ECM template – Investigation initial letter***) to the Complainant acknowledging the complaint within five (5) days of the complaint being received. The letter shall:
- provide the contact details of the investigating officer;
  - demonstrate that the subject of the complaint is understood; and
  - provide an anticipated date for an outcome.

Review date	11/09/2014	Reviewing Officer:	Governance Officer
Next review date:	01/06/2016	Reviewing Officer:	Governance Officer
CEO Signature:		Date:	

- 2.7 The investigating officer shall inform the officer who performed the action which is the subject of the complaint that there has been a complaint made and that it is Council's policy to disclose information about the progress of the investigation and its outcome to the Complainant (***ECM template – Investigation letter to officer***). The investigating officer must provide a copy of this letter to Human Resources.
- 2.8 The investigating officer shall prepare an action plan for conducting the investigation and gather all information necessary to conduct the investigation such as relevant laws and Council policies and processes. The investigating officer may also obtain information from discussions and consultations with the Complainant, Council officers and, where relevant, third parties.
- 2.9 The investigating officer shall analyse all relevant information obtained and formulate findings as well as recommendations, if necessary, on how to improve Council's administrative practices for consideration by the CEO or Council.
- 2.10 The investigating officer shall prepare a report (***ECM template – Investigation report***) setting out their findings, what action, if any, is proposed to be taken and, if necessary, any recommendations for improvements to Council's administrative processes.
- 2.11 Once the investigation is complete, the investigating officer shall provide a copy of their report to the Complainant under cover of a letter (***ECM template – Investigation outcome letter***) which is to include the following information:
- a) whether the complaint has been sustained or not sustained and the reason for that decision;
  - b) if the complaint has been sustained, what action, if any, has been taken or is proposed to be taken in respect of the complaint, including any remedy made available to the Complainant or revision of Council policy or process; and
  - c) an explanation of the internal review process available to the Complainant if they are not satisfied with the outcome of the investigation.

#### Verbal Complaints

- 2.12 The officer who first receives the complaint shall, in the first instance, attempt to resolve the issue informally.
- 2.13 If the matter is resolved, the officer shall register the complaint and note that it was resolved and provide details of the resolution.
- 2.14 If the matter is unable to be resolved informally, the officer shall:
- record and register the details of the complaint, tasking it to the relevant Administration Coordinator and the Legal and Governance Officer;
  - confirm with the Complainant the accuracy of what has been recorded; and
  - explain what will happen next.
- 2.15 If the complaint is of a complex nature or contains complex material, the officer may request that the Complainant put the complaint in writing.
- 2.16 The officer investigating the Complaint shall then investigate the matter as per paragraphs 2.5 to 2.11 above.

#### Anonymous Complaints

- 2.17 Affected persons are able to make a complaint anonymously either in writing (including email) or verbally. If a Complainant makes an anonymous complaint, it is important that they provide as much information and supporting documentation as possible to enable Council to investigate the complaint, as the investigating officer will be unable to contact them for further information or clarification.

2.18 Whilst the investigating officer shall investigate the anonymous complaint following the same process as non-anonymous complaints, it will not be possible for the investigating officer to advise the anonymous Complainant of the outcome of the complaint.

Timeframes for provision of investigation officers report

2.19 In general terms, Council will endeavour to meet the following timeframes for dealing with a complaint:

Type of Matter	Timeframe
For urgent matters	Within fourteen (14) days of receipt of the complaint
For non-urgent matters that are not considered to be complex	Within thirty (30) days of receipt of the complaint
For complex matters	Within seventy-five (75) days of receipt of the complaint

2.20 If the complaint has not been, or is expected not to be, resolved within the relevant timeframe specified in paragraph 2.19, the investigating officer shall write to the Complainant to advise them of the nature of the delay and provide an estimated date for an outcome.

Complaints made on behalf of “affected persons”

2.21 If a professional advisor, for example a solicitor or accountant, lodges a complaint on behalf of an affected person, Council shall correspond with that advisor.

2.22 If a person who is not a professional advisor lodges a complaint on behalf of an affected person, Council shall correspond directly with the affected person. In circumstances where Council is provided with a letter of authority, which Council considers has been validly made, indicating that the agent is acting on behalf of the affected person, Council shall correspond with the agent.

Grounds for refusal to investigate a complaint

2.23 In assessing a complaint (including any further information provided by the Complainant), the investigating officer will consider whether there is a statutory ground on which the complaint may be refused.

2.24 The investigating officer may refuse to investigate a complaint or, having started to investigate a complaint, refuse to continue the investigation if the officer reasonably considers that:

- a) the complaint does not fall within the scope of the Administrative Action Complaints Policy; or
- b) the complaint is trivial in nature; or
- c) the complaint concerns frivolous matter or was made vexatiously; or
- d) the Complainant is not an “affected person”; or
- e) the Complainant has a right of appeal, reference or review, or another remedy that the person has not exhausted and it would be reasonable in the circumstances to require the Complainant to exhaust the right or remedy before the officer investigates, or continues to investigate, the complaint<sup>1</sup>; or
- f) in the circumstances, investigating the complaint is unnecessary or unjustifiable.

2.25 If the investigating officer makes a decision not to investigate a complaint, they shall provide the Chief Executive Officer and the Complainant written notice of their decision and the reasons for their decision (***ECM template – Investigation refusal letter***).

<sup>1</sup> A right or remedy mentioned in paragraph 2.16(d) does not include a right to make an application to the Supreme Court under the *Judicial Review Act 1991*.

## **STAGE TWO – INTERNAL REVIEW**

- 2.26 If the Complainant is not satisfied with the manner in which their complaint was handled or the outcome of the investigation, including any remedial action taken, the Complainant may lodge a request, in writing, for an internal review.
- 2.27 The reviewing officer shall send a letter (***ECM template – Internal review initial letter***) to the Complainant acknowledging the request for internal review within five (5) days of the request being received.

### **Who will conduct internal reviews**

- 2.28 Internal reviews shall be conducted by Council officers as follows:

<b>Complaints relating to an investigation by:</b>	<b>Review officer</b>	<b>Advisor</b>
Chief Executive Officer	Mayor with the assistance of the Deputy Mayor or Senior Executive Employee	Governance Officer
Chief Operating Officer	Chief Executive Officer	Governance Officer
Directors	Chief Executive Officer or Chief Operating Officer	Governance Officer
Executive Managers	Relevant Director	Governance Officer
Officers below Executive Manager level	Relevant Executive Manager	Governance Officer

### **How will an internal review be conducted**

- 2.29 The reviewing officer shall investigate the manner in which the complaint was investigated, whether the decision of the investigating officer should be upheld or overturned as well as the adequacy of the remedial action, if any, taken or proposed to be taken to address the complaint.
- 2.30 If the reviewing officer is not satisfied with the manner in which the complaint was handled or the remedial action (or lack thereof), they shall:
- counsel the officer who initially handled the complaint; and
  - institute action to address the complaint.
- 2.31 After the review is complete, the reviewing officer shall prepare a review report (***ECM template – Internal review report***) setting out their findings, what action, if any, is proposed to be taken and, if necessary, any recommendations for improvements to Council's administrative processes.
- 2.32 Once the review is complete, the reviewing officer shall provide a copy of their review report to the Complainant under cover of a letter (***ECM template – Internal review outcome letter***) which is to include the following information:
- a) whether the complaint has been sustained and the reason for that decision;
  - b) if the Complaint has been sustained, what action, if any, has been taken or is proposed to be taken in respect of the complaint, including any remedy made available to the Complainant or revision of Council policy or process; and
  - c) an explanation of the external review processes available to the Complainant should they not be satisfied with the outcome of the investigation
- 2.33 If the Complainant remains dissatisfied, the reviewing officer shall consider other options that may be available to achieve a resolution to the matter, e.g. conciliation, mediation or further direct negotiations with the Complainant.

## Timeframes for provision of reviewing officers report

2.34 In general terms, the Council will endeavour to meet the following timeframes for conducting an internal review:

<b>Type of Matter</b>	<b>Timeframe</b>
For urgent matters	Within twenty-one (21) days of receipt of the request for internal review
For non-urgent matters that are not considered to be complex	Within forty (40) days of receipt of the request for an internal review
For complex matters	Within ninety (90) days of receipt of the request for an internal review

### **STAGE THREE – EXTERNAL REVIEW**

2.35 If a Complainant is not satisfied that their complaint has been properly dealt with during the internal review process, they may refer the matter to an external review agency, for example the Queensland Ombudsman.

2.36 All staff, including the investigating and reviewing officers, shall provide prompt assistance to any external review agency request.

### **3. RESPONSIBILITIES OF OFFICERS**

3.1 **Investigating Officers** shall:

- have a thorough understanding of the Administrative Action Complaints Policy and Administrative Action Complaints Process;
- deal with the complaint fairly, promptly, professionally, in confidence (subject to any legal requirements) and in a manner respectful to the Complainant;
- provide advice or arrange for the giving of assistance, to the extent practicable, to the Complainant if the Complainant requires interpreter services or has special needs;
- investigate complaints as expeditiously as possible;
- undertake investigations in an independent, impartial and objective manner;
- comply, as much as reasonably practicable, with the timeframes set out in paragraph 2.19;
- adhere to the principles of procedural fairness and natural justice;
- establish and maintain a document trail to facilitate any subsequent review that may be undertaken of the investigation; and
- when determining if an action was lawful, also assess whether it was fair, reasonable and correct.

3.2 **Reviewing Officers** shall:

- have a thorough understanding of the Administrative Action Complaints Policy and Administrative Action Complaints Process;
- conduct reviews fairly, promptly, professionally, in confidence (subject to any legal requirements) and in a manner respectful to the Complainant;
- undertake reviews in an independent, impartial and objective manner;
- comply, as much as reasonably practicable, with the timeframes set out in paragraph 2.34.
- adhere to the principles of procedural fairness and natural justice;
- establish and maintain a document trail to facilitate any subsequent review that may be undertaken of the investigation; and
- when determining if an action was lawful, also assess whether it was fair, reasonable and correct.

### **4. REVIEW**

4.1 In accordance with the requirements of the Act, a section will be included in Council's annual report relating to administrative action complaints.

- 4.2 Every two (2) years the Council will conduct a review and audit of the complaints management process including an analysis of complaint trends.
- 4.3 The review/audit will evaluate the performance of the complaints management process and will consider the following aspects, where necessary:
- (a) **Accessibility** – whether the complaint process is readily available to members of the community and is user-friendly.
  - (b) **Timeliness** – whether timelines for responding to complaints have been met and, if not, remedial action proposed.
  - (c) **Satisfaction** – as evidenced by any complaints about the complaints process.
  - (d) **Compliance** – by considering reports on the operation of the complaints process.

## 5. DEFINITIONS

**administrative action complaint** 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 the affected person

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

**CEO** refers to the chief executive officer of the council.

**complainant** refers to the affected person or organisation making a complaint.

**complaint** means an expression of dissatisfaction by a person regarding an administrative action of Council

**council** refers to the Whitsunday Regional Council

**council officer** includes a permanent, temporary, casual or contract member on the council's staff.

**days** is a reference to business days.

**investigating officer** means a Council officer, generally a branch manager or team leader, who has been tasked with investigating an Administrative Action Complaint.

**reviewing officer** means a Council officer who has been delegated (under section 259 of the Act) the CEO's power to act as a complaints officer for the internal review of any complaint.

**the Act** refers to the Local Government Act 2009.

## 6. RELATED POLICIES OR PROCEDURES

Administrative Action Complaints Policy

## 7. RELEVANT LEGISLATION

*Local Government Act 2009*

*Local Government Regulations 2012*

## 8. DATED REVIEWED

September 2014

## 9. NEXT REVIEW

June 2016