

ADMINISTRATIVE ACTION COMPLAINTS PROCEDURE

OBJECTIVE

This procedure sets out the steps involved in receiving, handling and recording Administrative Action Complaints, assessing the complaint, rectifying an unfair or wrong decision and making improvements in Council's practices and decision making as a consequence of an Administrative Action Complaint.

DEFINITIONS

Affected Person	means a person who is apparently directly affected by an administrative action of the Council
CEO	means Chief Executive Officer of Banana Shire Council
Complainant	means a person or organisation who makes a complaint
Council	means Banana Shire Council
Council Officer	means all permanent, temporary and casual staff and staff employed under contract

PROCEDURE

MAKING A COMPLAINT

An Administrative Action Complaint under the Administrative Action Complaints Policy can be made by an affected person:

- In Writing
 - Mail to: Chief Executive Officer
Banana Shire Council
PO Box 412
BILOELA QLD 4715
 - By Email enquiries@banana.qld.gov.au
 - Deliver to the Council Office at Biloela, Moura or Taroom
- Verbally
 - By Telephone 07 4992 9500
 - In person at a Council Office in one of the towns of Biloela, Moura or Taroom

An affected person should, if possible, lodge their complaint in writing. This will assist the Council in understanding the nature of the complaint and any outcome sought by the complainant.

If a telephone complaint is of a complex nature, the complainant may be requested to put the complaint in writing before it will be actioned by Council. If the complainant requests assistance to produce the complaint to writing, the Council will endeavour to provide that assistance.

Anonymous complaints will be received however Council will have difficulty communicating with the complainant if they remain anonymous. As a complaint can only be made by an affected person Council will make all reasonable attempts to contact the affected person in relation to the matter.

Complaints will be accepted from an agent for the affected person where a written authority signed by the affected person has been provided to Council by the agent. Council reserves the right to contact the deemed affected person to verify the authorisation before commencing the review process. The term affected persons refers also to the agent of affected persons through the remainder of this policy.

Complaints will be handled generally in accordance with the details in these procedures. If the procedures are silent on a particular point, then the procedure on that point will be determined by the officer to whom the complaint is assigned, or by the CEO.

ASSISTANCE

If necessary, assistance may be provided by a Council officer to an affected person, on how to make a complaint, including how it should be documented. The aim is to clarify what it is the complainant wishes to raise and the outcome/s sought.

If a complainant requires interpreting services, or has special needs, the complainant will be referred to the Complaints Officer who will provide advice or arrange for the giving of assistance, to the extent practical.

If a person wishes to lodge a complaint but not wish to provide any identifying details, the complainant should be advised:

- a) The Council does not victimise a person who makes a complaint; and
- b) Unless there is sufficient detail about the complaint, it will be difficult for the Council to fully and effectively investigate the issue.

The Complaints Officer will have regard to the rights of individuals and apply the Human Rights Act 2019 to any review assessments and processes.

RECORDING A COMPLAINT

All written complaints will be recorded in Council's data management system and referred to the CEO or Director responsible for the area which is the subject of the complaint for handling.

The officer who receives an oral complaint will record details in Council's data management system and refer the complaint for action under the complaints management process.

The Council will provide written confirmation of receipt of the complaint to the affected person or their nominated agent within 14 days of receipt of the complaint.

COMPLAINTS OFFICER

The CEO may delegate the power to investigate and otherwise deal with administrative action complaints to a Complaints Officer on an ongoing basis or may select and appoint an officer to investigate and deal with each individual administrative action complaint.

Notwithstanding the above, should a delegated officer be appointed, the CEO may still select and appoint a specific officer to investigate and deal with a specific complaint at the CEO's discretion.

Skills of Complaints Officer

The person appointed as a Complaints Officer for a complaint must have the appropriate knowledge, qualifications, skill and experience, including the relevant investigative, analytical and report-writing skills, to conduct an investigation into the complaint, make findings, formulate recommendations (where appropriate) and prepare a report on the outcome of the investigation for consideration by the council or its delegate.

Appointment of Complaints Officer

The Complaints Officer appointed to investigate a complaint by way of internal or external review must not have been involved with the original decision making process of the administrative action.

The Complaints Officer must not be less senior than the Officer who took the administrative action that is being reviewed except who the deciding officer was the CEO (see table below). The CEO may determine that any complaint be dealt with by an external party.

For an external review, Council may engage a firm or person with the suitable skill set or may also engage from a panel established by the Local Government Association Queensland.

The following table sets out option for the original reviewer and subsequent reviewer if required under this procedure.

Original or Subsequent Decision Maker	Options for Reviewer
Chief Executive Officer	Director External Party
Director	Chief Executive Officer External Party
Manager	Chief Executive Officer Director
Other Officer	Chief Executive Officer Director Manager

COMPLAINTS RELATING TO OFFICERS

Where complaints relate to individual officers, regard will be given to the Employees' Code of Conduct. If the complaint contains allegations of criminal, corrupt or serious improper conduct, the complaint will be referred to the CEO for consideration including whether it should be referred to the Crime and Corruption Commission.

Similar considerations apply with respect to disclosures made under the *Public Interest Disclosure Act 2010*.

VEXATIOUS COMPLAINANT

Council officers are expected to treat all persons with courtesy and respect at all times. There may be occasions, however, when the issue(s) a person has cannot be dealt with to their satisfaction and it is not realistic for Council officers to continue to respond.

In this case, the CEO may decide to limit or cease responses to the person. A decision of this nature is to be communicated in writing to the person who will be given a specific time to make representations about the proposed course of action, before the final decision is made.

The CEO may:

- limit a complainant's access to Council officers and / or to Council premises
- require a complainant to communicate with the Council only in writing and / or through a nominated officer; or
- inform the complainant that further correspondence will be placed on file, but will not be acknowledged or responded to, unless new substantive issues are raised

RESPONSIBILITY OF COUNCIL OFFICERS

Executive Management Team (EMT)

The Executive Management Team will:

- a) encourage excellence in customer service by Council officers
- b) ensure that all officers implement the Complaint Management Policy and Procedures in the manner intended by the Council
- c) foster staff acceptance that complaint management is the responsibility of all officers; and
- d) ensure any training necessary is provided e.g. on conflict management or customer service skills

Council Managers

Managers will ensure that:

- a) all officers are aware of their role in customer service and responsibility for complaint management; and
- b) service standards are met

Council Officers

All officers will:

- a) observe Council's Complaint Management Policy and Procedures; and
- b) have the authority to attempt to resolve a complaint before it is escalated

CRITERIA FOR ADMINISTRATIVE ACTION COMPLAINTS

The criteria used for considering whether to address a complaint is as follows:

- Is the complaint an expression of dissatisfaction by a person regarding a decision or other action of council?

A complaint is NOT an administrative action complaint if the following apply:

- Is the complaint frivolous, trivial or vexatious?
- Is the complaint one of the following:
 - A request for service or maintenance?
 - A work related grievance of an officer or employee?
 - About Council's decision in respect of a liability claim?
- Can the complaint be better dealt with under one of the following:
 - *Sustainable Planning Act 2009*
 - *Local Government Act 2009* (Conduct and performance of Councillors)
 - *Crime and Corruption Act 2001* (Official misconduct)
 - *Local Government Act 2009* (Competitive neutrality)
 - *Public Interest Disclosure Act 2010*
 - Other legislation?

TIMEFRAME

The timeframe for dealing with a complaint will depend on an assessment of the following factors by the CEO or authorised Officer:

- the urgency of the situation in terms of loss or damage likely to be suffered if the complaint is not quickly resolved
- the likelihood that the complaint can be quickly resolved
- the complexity of the complaint issue/s
- whether the complaint requires internal review or external review in accordance with the criteria for the selection of a Complaints Officer for the complaint as set out in the complaints process

If the nominated timeframe for dealing with a complaint cannot be met for any reason, the CEO or Complaint Officer may, once only, extend the time for dealing with the complaint and notify the complainant in writing of the extension before the expiry of the initial timeframe.

In determining any extension of time, the CEO, or Complaint Officer, must fix a date that is reasonable in all the circumstances. All attempts will be made to complete the review within a period of 30 days however in no case more than (3) months from the date the complaint was received by Council.

The affected person must be advised of the timeframes applied under this procedure.

INTERNAL AND EXTERNAL REVIEW

An investigation may be undertaken either by way of internal review or external review.

Internal review

Matters determined by an officer of Council may be dealt with by an internal review. Consideration may be given to the nature of the matter and an external review undertaken if the Chief Executive

Officer is satisfied that an external review is required to ensure objectivity, timeliness or any other determining factor.

External review

An external review of a complaint will be conducted where the administrative action in question was taken by:

- a) the Council, or a committee of the Council, at a meeting
- b) the Mayor or the chairman of a standing committee acting under statutory or delegated authority

An external review may be conducted where the administrative action in question was taken by:

- a) the CEO
- b) Director
- c) Another officer as determined by the CEO

REVIEW PROCESS

Step 1 Appoint an appropriate Complaints Officer.

Step 2 Assess that the complainant is an affected person.

If yes proceed with review. If no provide advice to the complainant within 7 days of the determination advising them, they are not an affected person and Council will not be investigating the complaint.

Step 3 Acknowledge receipt of complaint if determined an affected person and provide the timeframe for within Council expects to make a determination.

Step 4 Gather information from complainant, Council records, Council policies and procedures and Council Officers in relation to the administration action decision.

Step 5 Assess the information and proceed to a written report including the reasons for the determination. Advise the CEO of the determination.

Step 6 Advise the affected person of the determination of Council and advise of any further review processes if the complaint has not be determined to the affected persons satisfaction.

Step 7 Record the actions in the register of administrative action complaints.

Step 8 Make rectification if required.

Step 9 If there is no rectification required but inefficiencies, lack of policy clarity or process issues have been highlighted through the process the Complaints Officer should make recommendations to management for process improvement to be implemented.

COMMUNICATION OF DECISION

Once the matter has been reviewed the Council will advise the affected person or their agent in writing within 14 days of the determination.

FURTHER RIGHT OF REVIEW

If the affected person is not satisfied with the reviewer's decision they should respond to the Council providing the reasons for dissatisfaction highlighting where they believe the decision error has been made.

Council will again review the matter using new reviewer and the same process.

Council will not review the matter a third time unless new information is provided that the CEO believes warrants further review.

If the affected person remains aggrieved and requests advice from the Council of any external review process available, the Council will provide this information to the complainant e.g. Ombudsman, Crime and Corruption Commission or Anti-Discrimination Commissioner and will advise contact details.

RECTIFICATION

Where an administrative action complaint has been substantiated Council should immediately undertake action to amend processes, policies, procedures and advise the affected person of such action. Where possible such rectification should be undertaken within a period of 30 days. This is subject to the ability to undertake such changes and any financial and operational constraints and is a target rather than a benchmark.

REGISTER

All administrative action complaints are to be recorded in the register of Administrative Action Complaints.

INTERNAL REPORTING

Reports based on this Register will be generated within Council to provide the basis for analysis of the complaints received.

The Complaints Officer will report on complaints received, both oral and written, their management and any emerging trends to the CEO and EMT at three (3) monthly intervals with due regards for confidential or personal information. The CEO may present these reports to Council.

EXTERNAL REPORTING

Details of administrative action complaints are required to be reported annually in the annual report.

COMMUNICATION

Council will take steps to publicise the Administrative Action Complaints Procedure to all Council Officers.

CERTIFICATION



**CHIEF EXECUTIVE OFFICER
BANANA SHIRE COUNCIL**



DATE