



**WINTON SHIRE COUNCIL
GOVERNANCE**

COMPLAINTS MANAGEMENT POLICY

COMPLAINTS MANAGEMENT - POLICY

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COMPLAINTS MANAGEMENT - POLICY

PURPOSE

The purpose of this Winton Shire Council (Council) Complaints Management policy is to establish Council's commitment to ethically, fairly, transparently and compliantly, managing and resolving all complaints.

This policy provides a single framework for identifying, assessing, recording, managing and resolving complaints.

Council is committed to providing a quality level of customer service that does not attract complaints.

SCOPE

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

DEFINITIONS

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.
Administrative Action Complaint ACC	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, quality or communication. A safety/risk concern, nonconformance of a policy or procedure 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.
Chief Executive Officer CEO	A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> or is acting in this position.
Council	Winton Shire Council (WSC)
Council Employee	Local government employees, including the CEO or a person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
Councillor Inappropriate Conduct	As defined in the <i>Local Government Act 2009</i> <i>Part 3 Dealing with inappropriate conduct, misconduct and corrupt conduct.</i> <i>150K What is inappropriate conduct</i>
Councillor Misconduct	As defined in the <i>Local Government Act 2009</i> <i>Part 3 Dealing with inappropriate conduct, misconduct and corrupt conduct.</i> <i>150 What is misconduct</i>
Duty of Care (Legal obligation)	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.
Frivolous Complaint	A complaint which is considered to be made without evidence to cause annoyance. Frivolous complaints may be: 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. Continually lodged to invoke a desired response. On a matter which the complainant persists in pursuing despite Council's reasonable efforts to help them specify their concerns, and/or where the

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	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 Relations Matters	Disputes between an employee and the employer in respect to Council's certified agreements and relevant industrial instruments and matters that relate.
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
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> .
Unit of Public Administration UPA	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; (da) A local government; (e) 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; (f) 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; (g) A State court, of whatever jurisdiction, and its registry and other administrative offices; and (h) Another entity prescribed under a regulation.
Vexatious Complaint	Considered to be: Made maliciously to damage a person's career or reputation, or the reputation of Council, A threat of violence against others or property. Collusion between others, in an effort to discredit others or take retribution or to have an employee removed from the workplace.
Volunteer	A person who of their own free will offers to undertake un-paid work for Council and is accepted as a volunteer by the CEO, Directors or their delegates.

POLICY STATEMENT

Council acknowledges the right of a person to lodge a complaint and is committed to upholding its legal obligation by aiming to provide an effective resolution to ALL complaints received.

The objective of this policy is to:

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

Council complaint management principles include:

- Treating all complaints seriously and treating all complainants with respect, courtesy, dignity and fairness.
- Reviewing all complaints on merit and addressing all complaints in an equitable and impartial manner adhering to the principles of natural justice and procedural fairness.
- Acknowledging and responding to the complaint and keeping the complainant informed as to the AAC process steps and progress.
- Managing all complaints confidentially and in accordance with the relevant legislation.
- Providing information about Council's complaints process (policy and procedure) on Council's website - complaints can be lodged in various forms (written, via email, in person).
- Providing all decisions/actions to the complainant in a timely manner.
- Identifying opportunities for improvement.

ASSESSMENT OF THE 'COMPLAINT'

A complaint may be received via any communication method, such as an email, letter, through the Council website, verbally (in person, by telephone) or any other communication method. Council's preferred method for receipt of a complaint is in writing.

Note: Council does not consider comments published on social media to be complaints.

Once information is received, it will be 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.

Every effort shall be made to address the complaint at the first point of contact, unless the complaint is related to:

- The conduct of a Councillor.
- Of a serious nature.
- Multiple complaint categories or the categorisation is unclear.

In these instances, the CEO is responsible for assessing and categorising the complaint.

COMPLAINT CATEGORIES

ADMINISTRATIVE ACTION COMPLAINTS (AAC)

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, including:

- Complaints about Council's services i.e. a repeated complaint by an affected person about the general quality of the water or water pressure.

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- Failure to take action within a satisfactory timeframe after a request for service has been received i.e. Filling a pothole in the complainant's street.
- Complaint from a customer whose private information has been inappropriately disclosed.
- Complaint from an anonymous person, if sufficient information is provided to investigate the complaint.
- Referrals from outside agencies, i.e. the Queensland Ombudsman.

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.

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 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*.

Complaints about the conduct of a Councillor may be made to the Office of Independent Assessor (OIA), in accordance with *Chapter 5A of the Local Government Act 2009*.

Complaints made directly to Council will be referred to the OIA for assessment.

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 shall 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.

COMPLAINTS ABOUT THE CEO

Complaints about the conduct of the CEO will be directed to the Mayor or their delegate who will initially assess and manage the complaint.

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, shall be administered in accordance with the *Public Interest Disclosure Act 2010* and Council's Public Interest Disclosure Policy (WSC-ADM-POL-005).

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*.

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

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.

A grievance may relate to aspects of employment, such as:

- Workplace bullying including sexual harassment.
- Workplace discrimination.
- Unreasonable or lack of management action.
- Breaches of Council policy documents and legislation i.e. the Code of Conduct.

A complaint will not be deemed a grievance if it relates to reasonable management action including:

- Setting and managing performance goals and standards including dealing with unsatisfactory performance – refer to the Performance Management Policy (WSC-HR-POL-005).
- Allocating work or work location in a transparent manner.
- Implementing organisational changes or restructuring.
- 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 Resolution Policy.

OTHER MATTERS GOVERNED BY A STATUTORY REVIEW PROCESS

A complaint that has a separate statutory review process shall be directed to the relevant review process, in the first instance. These include:

- Planning issues that can be addressed through the Planning Act 2016.
- Competitive neutrality issues that can be addressed through the Local Government Act 2009.
- Disputes regarding administrative decisions that can be addressed through the Queensland Civil and Administrative Tribunal.
- Disputes regarding infringement notices which can be reviewed through the Magistrate's Court.

OTHER COMPLAINT

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 for assessment and review.

FRIVOLOUS OR VEXATIOUS COMPLAINTS

Frivolous and vexatious complaints consume considerable time, resources and finances with no benefit to the community or Council. A complaint deemed to be frivolous or vexatious shall be managed in accordance with Council policy.

Frivolous or vexatious complaints include:

- Matters either deemed to be minor, in relation to higher priorities, that are not likely to cause a threat to public safety or financial loss to Council or others i.e. a complaint about a person illegally parked unless it is considered dangerous.
- A complainant who refuses to accept the decision of an authorised officer.
- A complainant who unreasonably refuses to deal with the officer appointed to undertake the review.
- 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 resources, unless the subject matter is deemed to warrant investigation.
- Follow up calls about minor matters.
- Rhetorical comments i.e. 'can't anyone at Council do math?'

- A complainant who has a history of:
 - 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.
 - Complaining about Council 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.
 - Giving forceful instructions about how their complaint should be dealt with and/or by whom.
 - Making unreasonable demands that organisational time and resources be spent dealing with their complaint.

CONTACT WITH COMPLAINANTS

Council prefers that a complainant provides their name and contact details. This allows the CEO or nominated person, where necessary to invite the complainant to provide further information to assist in fully understanding the concerns, the issue to be investigated (if an investigation is to be undertaken) and the outcome or remedy sought in accordance with Council policy.

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

Council is committed to transparency. Council shall in a timely manner, acknowledge receipt of the complaint, keep the complainant appropriately informed of the process steps and progress of the complaint, and/or the investigation and the outcome/actions of the decision.

Note: Anonymous complaints will be accepted and assessed where sufficient information has been provided to Council.

REVIEW OPTIONS

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.

The complainant will be advised of review options when notified of the outcome of their complaint.

REPORTING AN ADMINISTRATIVE ACTION COMPLAINT (AAC)

The CEO shall report an AAC in accordance with Council's Administrative Action Complaint Procedure and other legislation.

Council will maintain a record of all AAC's in a Complaints Register.

Council's CEO or their delegate is responsible for:

- Assessing the complaint category and actioning the complaint accordingly.
- Conducting investigations where deemed necessary.
- Investigating complaints referred to Council either verbally or written, or by an external agency such as the Queensland Ombudsman.
- Providing advice to Council departments investigating the complaint.
- Providing progress reports to senior management, identifying and advising of potential risks requiring immediate rectification.
- Liaising with state government agencies where required.
- Administering the complaints management process, providing formal and statistical reports, recommendations and associated administrative tasks.
- Facilitating educational awareness programs in relation to the Complaint Management policy and other related policies and procedures.
- Being the central registrar for Council's Complaint Register.
- Reviewing and reporting on complaints to Council's management team and Council as required.

COMMUNICATION

Council's management team shall ensure that:

- Councillors, Council employees and members of the public have access to this policy.
- Councillors and Council employees be provided with the opportunity to be involved in the review of this policy.
- Changes and/or amendments made to this policy shall be communicated to Councillors, Council employees and members of the public.

RELATED COUNCIL DOCUMENTATION

- WSC-GOV-PRO-001 Administrative Action Complaints Procedure
- Fraud Management Policy
- Grievance Resolution Policy
- Code of Conduct
- Code of Conduct for Councillors in Queensland
- WSC-ADM-POL-005 Public Interest Disclosure Policy
- WSC-HR-POL-003 Anti-discrimination, Bullying and Harassment Policy
- WSC-HR-POL-002 Privacy and Confidentiality Policy
- Administrative Action Complaints Register
- Investigation Policy

LEGISLATION, RECOGNISED AUTHORITIES AND OTHER SOURCES

- *Anti-discrimination Act 1991 (Qld)*
- *Australian Human Rights Commission Act 1986 (Fed)*
- Councillor Conduct Tribunal <https://www.statedevelopment.qld.gov.au/local-government/governance/councillor-conduct-tribunal>
- *Crime and Corruption Act 2001 (Qld)*
- *Criminal Code Act 1899 (Qld)*
- *Human Rights Act 2019 (Qld)*
- *Industrial Relations Act 2016 (Qld)*
- *Information Privacy Act 2009 (Qld)*
- *Integrity Act 2009 (Qld)*
- *Local Government Act 2009 (Qld)*
- *Local Government Regulation 2012 (Qld)*
- Office of the Independent Assessor <https://www.oia.qld.gov.au/make-a-complaint>
- *Ombudsman Act 2001 (Qld)*
- *Public Interest Disclosure Act 2010 (Qld)*
- *Public Sector Ethics Act 1994 (Qld)*
- *Planning Act 2016 (Qld)*
- *Right to Information Act 2009 (Qld)*
- Winton Shire Council Website <https://www.winton.qld.gov.au/>
- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2011*

CEO DISCRETION

Where applicable, the CEO can apply their discretion as to the enforcement of the requirements outlined in this policy and any requests for variations to this policy.

COMPLAINTS MANAGEMENT - POLICY

REVIEW OF POLICY

This policy remains in force until amended or repealed by resolution of Council. This document will be reviewed biannually or as required.

RECORD OF AMENDMENTS and ADOPTIONS			
DATE	REVISION NO	REASON FOR AMENDMENT	ADOPTED BY COUNCIL
July 2011		Adopted by Council	20 July 2011
June 2017	1.0	Review by Council	16 June 2017
July 2020	2.0	Review by Council	17 July 2020
March 2022	3.0	Review by Council	17 March 2022