



Administrative Action Complaints PROCEDURE

Policy Version 1.0
Category: Administrative
Adopted: March 2022



Administrative Action Complaints Procedure

Purpose

The purpose of this procedure is to outline the method for handling and resolving complaints made by an affected person. The procedure also satisfies legislative obligations by establishing a complaints management process for resolving administrative action complaints.

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

Scope

This procedure applies to the management of all administrative action complaints received by Winton Shire Council.

This procedure should be read in conjunction with the Complaints Management Policy (WSC-GOV-POL-003).

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, noncompliance of 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> .



Grievance	Any type of problem, concern or complaint relating to an employee's work or the work environment.
Management Team	CEO, Directors, and Managers.
Public Interest Disclosure	All information and help given by the discloser to a proper authority about a public interest matter referred to, pursuant to sections 12 and 13 of the <i>Public Disclosure Act 2010</i> .
QCAT	Queensland Civil and Administrative Tribunal.
Request for information	An enquiry or request for information about Council services, policies or procedures.
Request for service	Requests made to Council to take action to satisfy the needs of the Customer i.e. dangerous stray dog or rubbish bin not emptied on rubbish collection day.

Procedure

Administrative Action Complaints (AAC), are complaints made about an administrative action of Council. The complainant must be an affected person. An affected person is someone who is seemingly directly affected by an administrative action.

An **Administrative Action** may include a decision, a failure to make a decision, including a failure to provide a written statement of reasons for a decision, an act, a failure to do an act, the formulation of a proposal or intention or the making of a recommendation. Examples may include:

- A complaint from a customer whose private information has been inappropriately disclosed.
- Complaints about Council's services, i.e. the quality of park maintenance.
- Failure to take action within a satisfactory timeframe, i.e. after a request for a service fixture in the complainant's street.

What is not classed as an AAC includes:

- Complaints made by someone who is not an affected person.
- A request for information or service.
- Suggestions made to Council.
- Enquiries or petitions.
- Comments submitted during a formal consultation or negotiation process.



- Public interest disclosure.
- Councillor conduct.
- Employee grievance.

How to Make an Administrative Action Complaint

The affected person may make an AAC in any of the following ways:

- Telephone Council: 07 4657 2666
- Visit Council's main office: 75 Vindex St, Winton, Queensland.
- Online: www.winton.qld.gov.au
- Email Council: complaints@winton.qld.gov.au
- Snap-Send-Solve (App) <https://www.snapsendsolve.com/>
- Write to Council: PO Box 288, Winton, Qld, 4735

Note: Council does not consider comments published on social media to be complaints and prefers complaints to be made in writing.

Anonymous Complaints

Council will accept an anonymous AAC, however sufficient information is required to review a matter to ensure the matter can be addressed effectively.

Acknowledgement

An AAC will be acknowledged in writing within two (2) weeks which will include a summary of the issues identified, possible outcomes, information regarding the complaints process, timeframes as well as applicable contact details.

The affected person will be kept informed as to the progress of their complaint throughout the investigation.

Note: Where Council receives an AAC and it is resolved at the first point of contact, it may not require a formal acknowledgment.

Record of Complaint

Employees dealing with an AAC, either at the first contact or at any stage of the process must keep full and accurate records in accordance with the *Local Government Act 2009*.

An employee receiving an AAC must ensure that the full details of the complaint and the complainant are entered into the AAC Register.



Complaints Process

The AAC process consists of four steps:

Step 1 – Initial Consultation

Where possible, an AAC should be resolved without the need for a formal investigation. Preference should be given to a resolution which may enable a complaint to be resolved promptly and amicably.

This may be achieved by the contact officer verbally speaking to the complainant and working through the issues to obtain a mutually satisfactory outcome.

Step 2 – Preliminary Review

Where the complainant remains dissatisfied, they may request an initial review to be undertaken by the management team.

The initial review of the AAC must identify the severity, safety implications, complexity, impact and the need for and possibility of immediate action.

The responsible Director/Manager shall within 7 days determine if the AAC falls within one of the following criteria and shall determine if the complaint should be investigated.

The majority of cases will be assessed and investigated unless it comes within one of the following assessment criteria:

- The complaint is frivolous or vexatious, i.e. lacks substance or credibility, is an abuse of the AAC process, is not made in good faith, or attempts to reopen an issue that has been determined by raising the same or similar issue again.
- Rude and/or uncontrolled language is used, or the complainant is physically harassing or stalking an employee. These complaints may not be answered and may be referred to another service i.e. Police.
- The complaint is made 12 months after the matter arose unless there was a relevant matter which was not within the means of knowledge of the complainant within 12 months after the matter arose.
- The complaint is made anonymously, and it is determined there is insufficient information to investigate the complaint.
- The complaint is complex and the complainant refuses to put it in writing.
- The complaint is being pursued by the complainant through an alternative review process, or it has already been reviewed through an alternative review process, i.e. through the Ombudsman's Office.



- A request is made for a review of an AAC which is subject to legislative or adopted policy timeframes or is subject to an agreed service level framework (i.e. Aged Care, NDIS, Child Care, Human Services etc.) and the legislative or adopted policy timeframes have not expired or all actions within the agreed service level framework have not been exhausted.
- In the event of the complainant failing to provide sufficient information or in some way inhibits the investigation, i.e. does not authorise property access.

If an AAC does satisfy one or more of the above criteria, only the CEO or their delegate can approve to **not** proceed to a preliminary review once consultation with the relevant Director has occurred. The complainant will be advised within two (2) weeks from the decision to **not** investigate the complaint.

Preliminary reviews should be completed within one (1) month. It is the responsibility of the employee undertaking the review to advise all parties should this timeframe require an extension.

Note: Council may request the complainant to supply further details via a statutory declaration.

The employee undertaking the preliminary review shall:

- Record the AAC appropriately and continue to maintain records as the investigation progresses.
- Acknowledge the request for a preliminary review of the AAC and contact the complainant to:
 - Where necessary request any further details on the AAC and the outcome the complainant is requesting.
 - Allow the complainant an opportunity to provide further relevant information.
 - Where possible attempt to reach a mutually acceptable resolution.
 - Advise the complainant of the expected timeframe for reviewing the AAC.
- Investigate the AAC in consultation and as appropriate, with the complainant, and the management team.
- Make an appropriate decision on the outcome and, where required a remedy.
- Provide the decision to the relevant Director/Manager for review and approval.
- Advise the complainant in writing of the outcome, which will include the reasons for the decision made.



If the AAC is accepted, advise of any remedy, the timeframe which it will be provided and detail any other changes that may occur as a result of the AAC. Where the complainant does not accept the AAC outcome, advise the complainant of the opportunity for a final review.

Ensure that the AAC Register is updated, including outcomes and any required actions.

Note: An AAC may be immediately escalated if the CEO or relevant Director/Manager determines that a matter, is unusually complex or for any other reason deemed relevant.

Step 3 – Final Review

If the complainant remains dissatisfied, they may request a final review to be undertaken by the CEO or their delegate, or as determined by the CEO. The responsible employee undertaking the final review shall:

- Record the AAC appropriately and continue to maintain records as the investigation progresses.
- Acknowledge the request for a final review of the AAC and contact the complainant to:
 - If necessary, ask the complainant for further clarification on the AAC and the outcome the complainant is requesting.
 - Give the complainant the opportunity to provide further relevant information.
 - Where appropriate, try to reach a mutually acceptable resolution.
 - Advise the complainant of the expected timeframe for reviewing the AAC.
- Undertake an investigation in accordance with Council policy.
- Allow a maximum of two (2) months to investigate the AAC and make recommendations. In the case of a technical or complex matter, this timeframe may be extended.
- Provide an Investigation Report and recommended actions for assessment by the management team for approval.
- The outcome shall be given to the complainant in writing, with a statement of reason/s which should include:
 - Decisions made by Council in regard to the complaint.
 - Reasons for Council's decision.



- Findings of facts
- Relevant legislation, local laws and policy documents.
- Where applicable a copy of the correspondence and other communication relating to the complaint.
- Where applicable evidence and other material available to the investigating officer.
- Where the complainant accepts the outcome, advise of any remedy, the timeframe in which the remedy will be provided and any other changes that may occur as a result of the AAC outcome.
- Where the complainant does not accept the outcome, advise of the external review options available.
- Update the AAC Register with the outcomes, required actions and action implementation date/s.

Step 4 – External Review Options

Where the complainant does not accept the outcome and all internal Council review options have been exhausted, the complainant will be advised of external review options.

External review options include (subject to jurisdiction):

- Queensland Ombudsman.
- Office of Information Commissioner.
- QCAT.
- Queensland Courts.

Remedial Actions

Where an AAC is found to be justified, Council will, where practicable, remedy the situation in a manner which is consistent and fair for both Council and complainant.

Remedial actions may include:

- An admission of fault.
- An apology.
- An explanation for the administrative action in question.
- Rectification, including repairing or replacing the matter in dispute.



- Cancellation or amendment of the decision.
- Revision of the relevant policy, procedure or process.
- Council to reimburse the costs incurred as a result of the action in question.
- Financial compensation, including an ex gratia payment.
- Waiver of the debt (if any) in question.

Note: More than one remedy may be applied if the circumstances justify that course of action.

Confidentiality and Privacy

Council shall keep the complainant's details confidential however, the complainant should be advised of the possibility that their identity may become obvious as a result of an investigation process or subsequent enforcement action.

Council's Privacy and Confidentiality Policy provides advice on handling the disclosure of personal information.

Council may be obliged to disclose a complainant's personal details to an external body for investigation or through a legal or statutory process.

Additional Responsibilities

The CEO or their delegate are responsible for:

- Being the central registrar for Council's complaint register.
- Administering the AAC process.
- Investigating an AAC referred by external agencies such as the Queensland Ombudsman.
- Liaising with State government agencies where required.
- Providing advice to the Council management team where required.
- Facilitating educational awareness programs in relation to an AAC and any applicable policies.
- Evaluating the effectiveness of the AAC management process.

Evaluating the AAC Process

Evaluation and review of the AAC process may include:

- A report/analysis of AAC's including timeliness of responses, systematic problems, correcting process deficiencies and assessing opportunities for



improvement and trends to help eliminate underlying causes of AAC's, i.e. nonconformity with health, safety, environmental, customer, regulatory and other legal requirements.

- Undertaking a survey of reviewing officers and complainants to determine the level of satisfaction with the process.
- Evaluating the AAC process for suitability, adequacy, effectiveness and efficiency and other internal factors, i.e. changes in policy, objectives, organisational structure, training needs and available resources.
- Scrutinise significant, emerging or recurring issues.
- Investigate the status of corrective and preventive action.
- Identify, analyse and respond to complaint trends.
- Provide recommendations for improving the effectiveness and efficiency of the AAC process.

Communication

Council's management team shall ensure that:

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

Related Council Documentation

- WSC-GOV-PRO-003 Complaints Management Policy
- 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
- Administrative Action Complaints Form

Legislation, Recognised Authorities and Other Sources

- *Local Government Act 2009 (Qld)*
- *Local Government Regulation 2012 (Qld)*
- *Crime and Corruption Act 2001 (Qld)*
- *Human Rights Act 2019 (Qld)*
- *Industrial Relations Act 2016 (Qld)*
- *Information Privacy Act 2009 (Qld)*
- *Integrity Act 2009 (Qld)*
- *Ombudsman Act 2001 (Qld)*
- *Public Interest Disclosure Act 2010 (Qld)*
- *Queensland Civil and Administrative Tribunal (QCAT)*
<https://www.qcat.qld.gov.au/>
- *Queensland Courts* <https://www.courts.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 procedure and any requests for variations to this procedure.

Review of Procedure

This procedure 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	Version	Reason for Amendment	Adopted
------	---------	----------------------	---------



March 2022	1.0	Prepared for Council adoption	17 March 2022
------------	-----	-------------------------------	---------------

