



Cloncurry Shire Council

**PROCEDURE
NO.**
COR 1028-01

ADMINISTRATIVE ACTION COMPLAINTS PROCEDURE

1. Procedure Objective

This Procedure sets out the process for management of all administrative action complaints. Any exceptions to this process must have the prior written approval of the Chief Executive Officer (CEO), or in the case of a Councillor or CEO, by the Mayor.

2. What is an administrative action complaint?

Section 268(2) of the *Local Government Act 2009* defines an administrative action complaint as one about an administrative action of Council by an affected person, i.e. one who is affected by the administrative action.

An administrative action of a local government includes the following:

- a decision, 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; and
- the making of a recommendation.

Some examples of administrative action complaints may be:

Type of administrative action	Complaint examples
An act or, failure to do an act	<ul style="list-style-type: none">• A repeated complaint about the general quality of a park that is not responded to by Council;• Failure to take action after a request has been received to fix a pothole in the complainant's street or other place they regularly travel;• Failure to take appropriate action following a request by an affected person to investigate a barking dog or noisy air conditioner;• A complaint about a process that Council is undertaking that is impacting on the complainant.
A decision, a failure to make a decision, including a failure to provide a written statement of reasons for a decision	<ul style="list-style-type: none">• A complaint in respect of a Council decision to vary a service.• A complaint in respect of a Council decision to not action a request.

The formulation of a proposal or intention	<ul style="list-style-type: none"> • A complaint in respect of a proposal by Council to take a particular action in the future.
The making of a recommendation	<ul style="list-style-type: none"> • A complaint in respect of a recommendation
The issue of a Penalty Infringement Notice (PIN) for matters such as illegal parking, littering, keeping of unregistered animals and non-compliance with local laws.	<ul style="list-style-type: none"> • A complaint that the PIN is not reasonable.

2.1. Distinction between an administrative action and a request for service

A request for service is not considered to be an administrative action complaint and is not subject to this procedure. Examples of requests for service commonly mistaken for administrative action complaints include:

- A request to mow a park;
- A request to clean a park barbeque;
- A notification of a barking dog; or
- A request to fix a pothole.

3. How to make an administrative action complaint

3.1. Ways to make an administrative action complaint

Any affected person can make an administrative action complaint to Council as follows:

- by telephone on 07 4742 4100; or
- in person at our Administration Office at:
 - 38-46 Daintree Street
Cloncurry QLD 4824
- in writing by email or letter addressed to the Chief Executive Officer at:
 - council@cloncurry.qld.gov.au
 - Cloncurry Shire Council
PO Box 3
Cloncurry QLD 4824

3.2 Timeframe for lodging an administrative action complaint

An initial administrative action complaint must be lodged within 12 months of the date of the administrative action. Decisions to take up matters in excess of 12 months old is at the discretion of the relevant delegate having regard to the nature of the issue, previous responses/advice, and ability to conduct an investigation or review into the matter due to the passage of time, the supporting evidence available, or other legislated processes having taken effect.

The only exception to the above paragraph is for penalty infringement notices (PIN). Any request for a PIN review must be submitted within 3 months of the date of the infringement.

In all cases, if a first-level review has been completed, a request for the second-level review must be made no later than 25 business days after the first-level review decision and comply with the expectations set out by section 8.1 (excluding a PIN – see clause 5).

3.3. Making an administrative action complaint on behalf of another person

An administrative action complaint may be made on another person's behalf, however Council will need to verify that the person making the complaint has the consent of the affected person to make the complaint on their behalf. Council requires that consent be provided in writing and be signed by the affected person. Council will also need to confirm if the affected person is happy for Council to respond directly to their representative.

Where a Councillor receives an administrative action complaint from a person, the Councillor should encourage the person to follow the procedure set out above at paragraph 3.1. A Councillor may refer an administrative action complaint by following the procedure set out in paragraph 4.1 below.

3.4. Anonymous administrative action complaints

Affected persons are able to make an administrative action complaint anonymously either in writing, via email, or by telephone. It is important that as much information as possible, and supporting documents for the administrative action complaint, are provided to enable it to be assessed and investigated. A consequence of making an anonymous administrative action complaint is that Council will not be able to advise the complainant of Council's decision in relation to the administrative action complaint.

3.5. Complainants' rights

Complainants are entitled to:

- A prompt acknowledgement of Council's receipt of the administrative action complaint;
- A prompt response to the administrative action complaint;
- Be kept informed of the progress and outcome of the complaints process;
- Confidentiality of personal details (where possible within the law);
- A thorough and objective investigation or review of an administrative action complaint; and
- Written confirmation of reasons for a decision.

3.6. Complainants' expectations

In order to ensure that an administrative action complaint is handled in the most efficient manner, Council requests that complainants:

- Clearly identify the issues of complaint, or ask for help from Council employees to do this;
- Give Council all the available information in support of the administrative action complaint in an organised format and not provide any information that is intentionally misleading or knowingly wrong or vexatious;
- Cooperate with the Council's inquiries or investigations; and
- Treat staff with courtesy and respect.

Once a reviewing officer has been allocated to the administrative action complaint, the complainant should direct all correspondence to that officer so that the administrative action complaint can be managed as efficiently as possible.

3.7. Councillor expectations

Where a Councillor refers an administrative action complaint to Council under paragraph 3.3 above, the complaint will be managed in the usual way set out in this procedure. Council will keep the Councillor informed of the progress of the administrative action complaint, such as when an acknowledgment letter is sent to the complainant, if and when the matter was informally resolved, and when a decision about the complaint has been provided to the complainant.

3.8. Unreasonable complainant conduct

Unreasonable complainant conduct may take several forms including unreasonable behaviour, arguments, demands, persistence, or a lack of cooperation. Council expects that all complainants will treat Council employees with courtesy and respect. If complainants do not meet these expectations, Council may set limits or conditions on the handling of the administrative action complaint. Any abuse, harassment or threats to the safety or welfare of staff may result in discontinuation of the complaint investigation and contact with the complainant may cease.

Unreasonable complaint conduct can have a major impact on staff and allocation of resources, which can raise equity issues as they lead to less resources for services, other complaints and priorities.

3.9. Frivolous, trivial, vexatious or false complaints

If it is found that the complainant has made a frivolous, trivial, or knowingly false or a vexatious complaint, the complaint will not be investigated and future contact with the complainant may cease.

A complaint may be considered frivolous or trivial if the complaint is without merit or unreasonably minor in nature.

A complaint may be considered vexatious if it is clearly mischievous, without merit, and serving only to cause annoyance.

4. Receiving, acknowledging, and assessing an administrative action complaint

Council adopts a three-level approach to the management of administrative action complaints:

1	<p>First Level – Delegate (Shared Services Manager) (AAC1)*</p> <ul style="list-style-type: none"> • Investigation and Response from the Shared Services Manager • Internal review requests and complaints about decisions and actions that have not previously been reviewed
2	<p>Second Level – Delegate (Chief Executive Officer) (AAC2)</p> <ul style="list-style-type: none"> • Investigation and Response from the Chief Executive Officer • Internal reviews of First Level Investigations and Responses
3	<p>Third Level – Complaints Oversight Agency</p> <ul style="list-style-type: none"> • Investigation and Response by the relevant complaints oversight agency (e.g. Queensland Ombudsman)

	<ul style="list-style-type: none"> • External review of Council’s Second Level Investigation or Response
<p>* An exception to this is in relation to a Penalty Infringement Notice (PIN). See clause 5.1 for procedures in relation to PIN reviews.</p>	

4.1. Receiving an administrative action complaint

All administrative action complaints must come into Council, via email or letter to the Records Management System.

Where an administrative action complaint is received by Reception, either in person or over the phone, the Administration Officer must:

- record the complainant’s details and the administrative action complaint in an email
- send the email to council@cloncurry.qld.gov.au to be triaged.

At times, administrative action complaints may be received directly by an operational area within Council. If this is the case, the Council employee who receives the administrative action complaint must:

- record the details of the complainant and the administrative action complaint in an email
- send the email to council@cloncurry.qld.gov.au to be triaged.

Where an administrative action complaint is received directly by a Councillor, the Councillor should encourage the complainant to send an email to council@cloncurry.qld.gov.au.

4.2. Acknowledgement of administrative action complaint by Council

The relevant Delegate will aim to acknowledge complaints received as soon as possible but no later than 5 business days after receipt of the complaint. Response times may vary depending how the complaint was made to Council and whether the customer prefers to be contacted by post, email, online, or telephone.

4.3. Registration of administrative action complaints

All complaints received by Council must be entered into Council’s Administrative Action Complaints Register by the Shared Services Manager.

4.4. Assessment of administrative action complaint

Upon receipt of an administrative action complaint, the Shared Services Manager will undertake a preliminary assessment to determine the appropriate resolution process.

The initial assessment process involves the following:

- Confirming that the subject of the complaint is within Council’s jurisdiction and responsibility;
- Confirming that the administrative action complaints process is the appropriate process for managing the complaint received as opposed to other review processes, or initiating a request for service; and
- Confirming whether the matter has already been considered as a first- or second-level complaint.

4.5. Where a complaint is multifaceted or concerns multiple directorates

When the Shared Services Manager undertakes the preliminary assessment to determine the appropriate resolution process for a complaint, if the Shared Services Manager ascertains that the complaint requires a response from more than one area of Council, the Shared Services Manager will liaise the relevant Directors to coordinate a single response to the complaint.

4.6. Where a complaint is a ‘public interest disclosure’

In instances where a complaint may involve any of the items below, it must be referred to Council’s Public Interest Disclosure Coordinator (Governance and Risk Coordinator), Public Interest Disclosure Support Officer (Shared Services Manager), or Director of Corporate Services for further review as it may be a Public Interest Disclosure and require management in accordance with the *Public Interest Disclosure Act 2010* and Council’s Public Interest Disclosure Policy and Procedure:

- Corrupt Conduct;
- Maladministration;
- A substantial misuse of public resources;
- A substantial and specific danger to public health and safety;
- A substantial and specific danger to the health and safety of a person with a disability;
- A substantial and specific danger to the environment; or
- A reprisal.

4.7. Where a complaint involves employee conduct

Where a complaint alleges a potential code of conduct breach, the Human Resources and Safety Manager may be notified to determine what role they are required to play in the complaint process.

Where more serious allegations are made or are evidenced during, or at the completion of, the AAC1 or AAC2 review, the respective delegate must liaise with the Human Resources and Safety Manager (serious code of conduct breach) and the Director of Corporate Services (corruption or similar) as soon as possible.

4.8. Guidance for timing of investigations and responses

Council will aim to respond to complaints as quickly as possible having regard to the following factors:

- Resource availability;
- The risk and urgency of the situation;
- The complexity of the complaint and number of issues involved; and
- The number of operational areas within Council involved in working through the complaint issues.

Council must respond to all complaints within 25 business days, unless the matter is particularly complex, in which case Council will correspond in writing with the complainant explaining why the matter is complex. Where extensions to the original timeframe are required Council will advise the complainant and provide a revised due date. Each AAC review must be completed within 3 months from the date of receipt.

5. Penalty Infringement Notices

5.1. Variations to AAC Procedure for PIN Reviews

Penalty Infringement Notice (PIN) reviews are considered an AAC and are managed in accordance with this Procedure, with the following exceptions:

- Any request for a PIN review must be submitted within 3 months of the date of the infringement and before the fine is paid in full.
- Any request for review of a PIN should specify the grounds on which review is sought and include appropriate evidence to support those grounds.
- A PIN review is automatically a second-level review.
- Following a PIN review:
 - A PIN recipient may elect to challenge the PIN through court proceedings
 - Council may refer the PIN to the State Penalty Enforcement Registry (SPER) or enforce the PIN through court proceedings
 - A PIN recipient may elect to pay the infringement.

Any PIN Review request that also raises concerns about staff conduct or behaviour must address those concerns having regard to existing guidance on staff conduct and behaviour.

5.2. Relevant Criteria for PIN Review

All requests to review a PIN will be assessed and determined objectively, fairly, consistently and transparently, having regard to the criteria set out below.

It is acknowledged that there will be circumstances where it will be appropriate for Council to withdraw a PIN, consistent with section 28 of the *State Penalties Enforcement Act 1999*.

The following criteria are relevant to a PIN Review:

- (a) Elements of the offence - The PIN recipient must provide evidence that indicates all the elements of the offence were not met or the PIN was issued on mistaken fact.
- (b) Identity – the PIN recipient must provide evidence that the incorrect person has been named as the alleged offender.
- (c) Administrative error – the PIN recipient must provide evidence that the PIN contains incorrect information or was not issued correctly.

There may also be special circumstances where a PIN may be reviewed, on the basis of mitigating circumstances.

6. General guidance for managing and resolving complaints

6.1. Record keeping

When reviewing an administrative action complaint the relevant Delegate must keep detailed and accurate records to be stored and retained in Council's Record Management System under the relevant folder. Records include:

- The complaint;
- File notes of discussions regarding the complaint;

- Material relating to investigation;
- All correspondence (internal and external) relating to the matter; and
- Any documents relating to a review, including recommendations, decisions, reasons for the decisions and outcomes.

6.2. Confidentiality and privacy

A complainant's details should remain confidential. However, Council may be obliged to disclose a person's details to an external body for investigation or under a legal or statutory process.

Council officers should bear in mind that under Information Privacy Principle (IPP) 11, personal information must not be disclosed to an entity other than the person the subject of the personal information. Relevant exclusions may include the following:

- The person has expressly or impliedly agreed to the disclosure; or
- Council officers are satisfied, on reasonable grounds, that the disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
- The disclosure is authorised or required under law.

For guidance, refer to the Information Privacy Policy and Information Privacy Procedure.

6.3. Guidance for investigations

The officer who is investigating the complaint must do so as expeditiously as possible and where a complex investigation is required, update the complainant on the progress of the response.

For complex complaints, the officer should 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 officer may also obtain information from discussions with the complainant, Council employees and, where relevant, third parties.

When undertaking an investigation, officers must adhere to the principles of procedural fairness and natural justice. All relevant, credible, and disputed issues must be properly examined free of bias. Any resulting decisions must be supported by evidence. A person whose rights, interests, or legitimate expectations could be affected by the review has a right to a non-biased, impartial assessment of the facts and allegations.

For complex matters, the officer must prepare a 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 for consideration.

6.4. Office of Queensland Ombudsman Good Decision Making Guidance

The Office of the Queensland Ombudsman recommends a ten-step guide to investigating and making a decision about a complaint:

1. Maintain a document trail;
2. Identify the power to make a decision;
3. Consider the authority and suitability of the decision maker;
4. Identify all relevant matters;
5. Follow procedures;

6. Gather all relevant information;
7. Provide Procedural Fairness;
8. Determine the facts;
9. Evaluate the facts to make the decision; and
10. Give meaningful and accurate reasons for your decisions.

6.5. Consideration of Human Rights

All officers must have regard to a person’s human rights and ensure their decisions are compatible with the *Human Rights Act 2019*.

7. Management of first-level complaints

7.1. Initial assessment and allocation of first-level complaints

First-level complaints are administrative action complaints that have not previously been reviewed/assessed by Council. They may include internal review requests for a decision made by Council.

First level complaints must be managed by the Shared Services Manager of the relevant operational area. The Shared Services Manager may assign a reviewing officer to investigate, manage, and respond to the complaint. If the complaint is about a Council decision or is an internal review request, the reviewing officer must not be at a lower level than the officer who made the original decision.

7.2. Guidance for managing and resolving first-level complaints

Required item	Guidance
Acknowledgement of complaint	All complaints must be formally acknowledged by a reviewing officer as soon as possible but within 5 business days. When providing the acknowledgement, the reviewing officer must: <ul style="list-style-type: none"> • Provide an estimate of the time expected to respond to the complaint; and • Contact details for providing further information.
Informal resolution	For non-complex complaints, the reviewing officer may be able to respond to and resolve the complaint informally. Where this occurs, the reviewing officer must provide written confirmation of the agreed informal resolution to the complainant, and provide a copy to the Integrity & Information Program to update the Administrative Action Complaints Register.
Investigation process	The investigation process should consider the following matters where relevant: <ul style="list-style-type: none"> • Concerns raised by the complainant; • Clarification obtained from the complainant; • Relevant Council policies and established processes, local laws and other statutory provisions;

	<ul style="list-style-type: none"> • Relevant correspondence and other communications relating to the complaint; and • Evidence and other material available to Council.
Decision	<p>At the completion of the investigation, the reviewing officer should make a decision as to:</p> <ul style="list-style-type: none"> • Whether the complaint is upheld; and • What remedy or remedies (if applicable) will be appropriate.
Remedies available	<p>Remedies available to resolve a complaint may include:</p> <ul style="list-style-type: none"> • Admission of fault; • Explanation; • Apology; • Change of decision; • Change to policy or procedure; • Repair/rework/replacement; or • Further assistance.
Notification of decision to the complainant	<p>Once the investigation has been completed, the reviewing officer must:</p> <ul style="list-style-type: none"> • Notify the complainant in writing of the decision: <ul style="list-style-type: none"> ○ Include a summary of the investigation process undertaken; ○ Include a summary of supporting reasons for the decision in the response to the complainant; ○ Explain Council’s roles and relevant powers with respect to the particular issues; ○ Provide the complainant with their review rights, including that if they remain dissatisfied with Council’s response, they can make a written request for an internal (second-level) review to Council’s Chief Executive Officer. • Consider whether a courtesy telephone call is appropriate to explain the decision to the complainant; • Notify the Shared Services Manager of the outcome to update the Administrative Action Complaints Register.

8. Management of second-level complaints

8.1. What should a request include

A second-level review request should clearly set out the grounds why the complainant believes a decision was incorrect, unreasonable, or wrong.

The mere expression of disappointment about the decision, questioning the validity of the decision, or seeking further explanation or clarification without formally asking for a second-level review will mean the matter is concluded.

The second level review request should refer to any documents or other evidence relied upon to support the review request, a concise summary of the reasons for requesting the review – why the decision was wrong or why/how the assessment, investigation or decision was deficient.

Requests for a second-level review should include:

- previous case reference number, if known;
- any new information that should be considered in reviewing the matter;
- copies of any relevant letters or other documents that have not previously been provided;
- the outcome the complainant wants.

If a complainant does not make a valid request, the decision made about the validity of the request (for example, the request does not provide sufficient grounds for a second-level review as outlined above) is a final decision and is not reviewable.

8.2. Initial assessments and allocation of second-level complaints

Generally, a complaint will not be investigated at the second level (second-level review) until it has progressed through the first-level complaint process and the complainant satisfies section 7.1.

In certain instances, it may be appropriate for a matter to escalate straight to second-level review having regard to the history of the matter, complexity, or other reasons deemed appropriate by the delegate. A PIN review is an example of a matter to escalate straight to a second-level complaint.

8.3. Guidance for managing and resolving a second-level complaint

Required item	Guidance
Acknowledgement of request for internal review	All second-level review requests must be formally acknowledged by the Chief Executive Officer (CEO) as soon as possible but within 5 business days. When providing the acknowledgement, the CEO must: <ul style="list-style-type: none">• Provide an estimate of the time expected to respond to the complaint; and• Contact details for providing further information.
Investigation process	The investigation process should consider the following matters: <ul style="list-style-type: none">• Concerns raised by the complainant;• Relevant Council policies and established processes, local laws and other statutory provisions;

	<ul style="list-style-type: none"> • Relevant correspondence and other communications relating to the complaint; • Evidence and other material available to Council; and • Council’s first-level response and supporting reasons.
Decision	<p>At the completion of the investigation, the CEO should make a decision as to:</p> <ul style="list-style-type: none"> • Whether the complaint is upheld; and • What remedy or remedies (if applicable) will be appropriate.
Remedies available	<p>Remedies available to resolve a complaint may include:</p> <ul style="list-style-type: none"> • Admission of fault; • Explanation; • Apology; • Change of decision; • Change to policy or procedure; • Repair/rework/replacement; or • Further assistance.
Notification of decision to the complainant	<p>Once the investigation has been completed, the reviewing officer must:</p> <ul style="list-style-type: none"> • Notify the complainant in writing of the decision: <ul style="list-style-type: none"> ○ Include a summary of the investigation process undertaken; ○ Include a summary of supporting reasons for the decision in the response to the complainant; ○ Explain Council’s roles and relevant powers with respect to the particular issues; ○ Provide the complainant with their review rights, including that if they remain dissatisfied with Council’s response, they can make a written request for an external review to Queensland Ombudsman, or, in the case of a PIN review they may elect to pay the fine or proceed to Court. • Consider whether a courtesy telephone call is appropriate to explain the decision to the complainant.

9. Request for review by an external agency – third-level complaints

Where a complainant remains dissatisfied with the outcome of a review process, they may lodge a complaint with an external agency such as the Office of the Queensland Ombudsman, or in the case of a PIN proceed to Court.

An application for external review application must be made in writing to the Queensland Ombudsman.

An external review application can be lodged with the Queensland Ombudsman in one of the following ways:

By post: GPO Box 3314, Brisbane QLD 4001

Online: <https://www.ombudsman.qld.gov.au/about-us/contact-us>

Generally, the Office of the Queensland Ombudsman will not review a complaint until it has been through Council's review process. In all instances, the Shared Services Manager will be the conduit to engagement with the Queensland Ombudsman.

10. Roles and responsibilities

This procedure designates the following roles and responsibilities for managing administrative action complaints within Council:

Role	Responsibilities
Councillors	<ul style="list-style-type: none">refer any complaint received to council@cloncurry.qld.gov.au
CEO	<ul style="list-style-type: none">may request that the complaint proceed directly to the second-level stage having regard to the history and complexity of the matterreview and completion of second-level matterspromoting good complaint management practices within the organisation
Directors	<ul style="list-style-type: none">promoting good complaint management practices within the organisation and more specifically their Directorateoversighting objective and good quality outcomes for all AAC matters within their Directorate
Reviewing officer	<ul style="list-style-type: none">acknowledge receipt of the complaintinvestigate the complaint as expeditiously as possible responsible and responding to first-level complaints received by Council with a focus on customer outcomeskeep the complainant informed of the progress of the investigationprovide a detailed written decision letter to the complainant after the investigation has been completed

Council employees	<ul style="list-style-type: none"> • undertake their work in a professional manner and, in accordance with Council’s Customer Service Charter and the Employee Code of Conduct • assist customers wishing to make a complaint if required • report any complaint received to council@cloncurry.qld.gov.au for recording and investigation in accordance with this Procedure • assist with any complaint-related investigation if requested to do so
Shared Services Manager	<ul style="list-style-type: none"> • maintenance of the Administrative Action Complaints Register • providing complaints management advice and training for the organisation
Records Officer	<ul style="list-style-type: none"> • receiving administrative action complaints and allocation to the relevant business area for action • notification to the Shared Services Manager so that the matter can be included in the Administrative Action Complaints Register.

11. Definitions

Definitions for terms used within the Procedure can be found in the Administrative Action Complaints Policy.

References and Related Documents:

Local Government Act 2009

Local Government Regulation 2012

Information Privacy Act 2009

Public Interest Disclosure Act 2010

Human Rights Act 2019

Administrative Action Complaints Management Policy – COR 1028

POLICY VERSION AND REVISION INFORMATION

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1	Council Resolution 10.191023	23 October 2019	
1.2	Council Resolution 281.2023	19 September 2023	
2	Council Resolution 341.2024	24 September 2024	September 2026

Policy Endorsed by: Philip Keirle



Title: Chief Executive Officer