

Administrative Actions Complaints Process

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ADMINISTRATIVE ACTIONS COMPLAINTS PROCESS

ORIGIN/AUTHORITY

Local Government Act 2009

Local Government Regulation 2012

Hope Vale Aboriginal Shire Council Administrative Actions Complaints Policy

RELATED LEGISLATION

Crime and Corruption Act 2001

Crime and Corruption Regulation 2015

Human Rights Act 2019

Information Privacy Act 2009

Information Privacy Regulation 2009

Integrity Act 2009

Integrity Regulation 2011

Ombudsman Act 2001

Public Interest Disclosure Act 2010

Right to Information Act 2009

PURPOSE

This process is established under Council's ***Administrative Actions Complaints Policy*** and is to be read in conjunction with that policy. It is intended to establish procedures which:

- a) Provide for the resolution of complaints about Council's administrative actions;
- b) Are consistent with legislative requirements and Council's *Administrative Actions Complaints Policy*;
- c) Ensure complaints about Council's administrative actions are dealt with in a fair, objective, effective, transparent, consistent and accountable manner.
- d) Facilitate the use of information obtained through the resolution of administrative action complaints to improve service delivery.

ONGOING ACTIVITIES WHICH SUPPORT THE IMPLEMENTATION OF THIS PROCESS AND ASSOCIATED POLICY

Council messaging will acknowledge:

- a) The right of customers to provide both positive and negative feedback on the services it provides and the decisions it makes, and to make complaints and appeal decisions.
- b) The valuable role of feedback and complaints in pursuing high quality service delivery.

The capacity of staff to effectively resolve complaints under this process and staff understanding of the opportunity for continuous improvement which the process offers, will be developed.

As with all other interactions with its customers, Council will deal with complaints fairly, promptly and professionally.

In order to meet its obligations under the *Human Rights Act 2019*, Council will consider human rights and will apply its *Human Rights Policy* when seeking to resolve administrative action complaints.

Council will prepare and maintain an *Administrative Action Complaint Form* designed to guide and assist customers in the making of complaints – see Appendix A.

This process, inclusive of the form designed for use in making complaints, will be published on Council's website.

Council staff involved in the resolution of administrative action complaints are encouraged to make use of the ***Guide to Face-to-Face Complaint Handling*** provided in Appendix B.

LODGEMENT OF ADMINISTRATIVE ACTION COMPLAINTS

Customers are encouraged to use the *Administrative Action Complaint Form* when making administrative action complaints as use of the form will help ensure that all relevant information is provided.

A complaint can be

- a) Made by a person other than the person affected by the action being complained about;
- b) Can be made verbally either over the counter or by phone;
- c) Made anonymously.

Anonymous complaints, or complaints from people who wish their names to be held in confidence, will be accepted for investigation, provided that there is sufficient information to enable an investigation to be conducted.

People who lodge administrative action complaints but who wish to remain anonymous are to be advised that Council's ability to investigate the complaint may be limited by their anonymity and also advised that they will not receive information about the outcome of their complaint.

Any anonymous complaints which allege fraud, corruption or unsatisfactory conduct by a Council officer will be referred directly to the Chief Executive Officer. An exception will be anonymous complaints which make allegations against the Chief Executive Officer which will instead be referred to the Mayor and, if appropriate, handled under Council's *Chief Executive Officer Corruption Allegation Policy*.

A person who wishes to make a verbal complaint about the conduct of one or more Council staff is to be advised that the complaint must be lodged in writing.

Administrative action complaints will not be accepted if made later than six months after the person affected by the action was notified or became aware of the administrative action involved.

RESOLVING ADMINISTRATIVE ACTION COMPLAINTS

Applicability of this Process

This process applies to all administrative action complaints made to the local government.

Matters not to dealt with under this process include:

- a) Initial requests for services or information including for example requests for a service:
 - i not usually provided by Council;
 - ii not provided unless requested;
 - iii which augments a service already provided;
 - iv which has not yet been completed by Council but which is not overdue for completion according to published timeframes;
- b) A suggestion for proposed service-improvement;
- c) Reports of damage, faulty or compromised infrastructure or safety concerns.

- d) Complaints which do not relate to the administrative actions, including decisions, of the agents of Council including Councillors, employees, volunteers and contractors, undertaken on the part of Council.
- e) Decisions made under a local law which are reviewable under a local law;
- f) Any matter covered by a separate statutory prescribed review process including the following matters associated with separate review processes under the *Local Government Act 2009*:
 - i Certain rates and charges disputes;
 - ii Competitive neutrality complaints;
 - iii Councillor conduct complaints;
- g) A process under the Planning Act 2016;
- h) A decision of the Court; and
- i) Allegations of corruption which are subject to the provisions of the *Crime and Corruption Act 2001*.

While a customer request for service or information is not an administrative complaint, his or her concerns about inaction in respect to a request will be considered as constituting such a complaint.

Steps to be Followed in Resolving Written Administrative Action Complaints Including Letters and Completed Administrative Action Complaint Forms

The officer who first receives what may be a written administrative action complaint shall immediately refer it to the appropriate manager.

1. The manager to whom the matter is referred determines if it is:
 - a) An administrative action complaint to be handled under this process;
 - b) A complaint which should be handled under a process other than this process;
 - c) A matter which should not be further progressed.
2. The manager forwards a letter to the complainant acknowledging the matters raised (normally within a week of receipt by the Council) which:
 - a) Demonstrates that the information provided is understood;
 - b) Indicates what will happen next.
3. For complaints and other matters to be dealt with under a process other than this process, the manager makes the necessary referral or initiates the appropriate process.
4. For administrative action complaints identified for handling under this process, the manager:
 - a) Investigates the complaint as expeditiously as possible;
 - b) For other than anonymous complaints, advises the complainant in writing, (normally within four weeks of the complaint having been received) of –
 - i. The outcome of his or her complaint including what remedial action, if any, was taken;
 - ii. The reason for the outcome; and
 - iii. Internal review and/or external appeal options if relevant.
 - c) Records information about the administrative action complaint and its outcome in Council's *General Complaints Register* in a manner which facilitates relevant reporting to the executive leadership team and the community via the Council's annual reports.

Steps to be Followed in Resolving Verbal Administrative Action Complaints

1. The officer who first receives what may be a verbal administrative action complaint (either by phone or over the counter) shall immediately refer it to the appropriate manager.
2. The manager to whom the matter is referred:
 - a) Records the details of the complaint on an *Administrative Actions Complaint Form*;
 - b) Confirms the accuracy of what has been recorded with the complainant.
3. The manager determines if the matter is:
 - a) An administrative action complaint to be handled under this process;
 - b) A complaint which should be handled under a process other than this process;
 - c) A matter which should not be further progressed.
5. The manager forwards a letter to the complainant acknowledging the matters raised (normally within a week of receipt by the Council) which:
 - a) Demonstrates that the information provided is understood;
 - b) Indicates what will happen next.
6. For complaints and other matters to be dealt with under a process other than this process, the manager makes the necessary referral or initiates the appropriate process.
7. For administrative action complaints identified for handling under this process, the manager:
 - a) Investigates the complaint as expeditiously as possible;
 - b) For other than anonymous complaints, advises the complainant in writing, (normally within four weeks of the complaint having been received) of –
 - i. The outcome of his or her complaint including what remedial action, if any, was taken;
 - ii. The reason for the outcome; and
 - iii. Internal review and/or external appeal options if relevant.
 - c) Records information about the administrative action complaint and its outcome in Council's *General Complaints Register* in a manner which facilitates relevant reporting to the executive leadership team and the community via the Council's annual reports.

Steps to be Followed in Resolving Complaints about the Administrative Actions of the Chief Executive Officer

1. Complainants about the Chief Executive Officer will only be accepted if made in writing.
2. The officer who first receives what may be an administrative action complaint about the actions of the Chief Executive Officer shall immediately refer the complaint to the Mayor.
3. The Mayor determines if the matter is:
 - a) An administrative action complaint to be handled under this process;
 - b) A complaint which should be handled under a process other than this process;
 - c) A matter which should not be further progressed.
4. For administrative action complaints identified for handling under this process, the Mayor will consider the information provided by the complainant and seek a response from the Chief Executive Officer. In the event that the Mayor considers that some form corrective action is required and the Mayor and Chief Executive Officer fail to agree on this action, the Mayor may refer the matter to the full Council.

5. In considering the matter, the full Council is to provide a reasonable opportunity for both the Mayor and the Chief Executive Officer to present information relevant to the complaint before deciding on the appropriate corrective action.
6. The Mayor will arrange for:
 - a) The complainant to be advised in writing, (normally within eight weeks of the complaint having been received) of –
 - i. The outcome of his or her complaint including what remedial action, if any, was taken;
 - ii. The reason for the outcome; and
 - iii. External appeal options if relevant.
 - b) Information about the administrative action complaint and its outcome to be recorded in Council's General Complaints Register in a manner which facilitates relevant reporting to the executive leadership team and the community via the Council's annual reports.

INTERNAL REVIEWS OF THE OUTCOMES OF ADMINISTRATIVE ACTION COMPLAINTS

When and How Internal Reviews can be Requested

If a complainant is not satisfied with the manner in which a complaint was handled or the remedial action taken, a request for an internal review of the complaint outcome can be made. An exception is assessments and decisions taken in relation to complaints about the administrative actions of the Chief Executive Officer for which no internal review procedure is provided.

Any request for an internal review of a decision taken by Council with regards an administrative action complaint must be received within 20 business days of the day on which the complainant receives advice as to the outcome of Council's primary complaint assessment and decision. Applications for internal review received outside these timeframes will only be accepted where the Chief Executive Officer decides that exceptional circumstances apply.

Procedure for Internal Reviews

1. Internal reviews of the outcomes of administrative action complaints will be organised in a way which ensures:
 - a) Reviewing officers are impartial and independent and have the authority to make decisions in favour of complainants;
 - b) Reviews are used to build the capability of officers involved in the assessment of complaints;
 - c) Reviews are provided as a free service.
2. Requests for the internal review of the outcomes of administrative action complaints must be made in writing and directed to the Chief Executive Officer.
3. The following positions are responsible for reviewing the outcomes of administrative action complaints when such a review is requested by a complainant:
 - a) For complaints relating to an initial investigation by a manager, reviews are to be carried out by the Chief Executive Officer.
 - b) For complaints relating to an initial investigation by the Chief Executive Officer, reviews are to be carried out by the Mayor.
4. The reviewing officer will investigate the manner in which the complaint was assessed and the remedial action taken. In carrying out this investigation, the reviewing officer will:

- a) Consider whether the officer who assessed the complaint had any involvement or interest in the administrative action which was the subject of the complaint;
 - b) Use the strategies listed in Appendix C of this process.
- 5. If, after investigation, the reviewing officer is satisfied with the process and the remedial action taken, he or she will inform the complainant accordingly (normally within eight weeks of the request having been received).
- 6. If the reviewing officer is not satisfied with the manner in which the complaint was handled or the remedial action taken, he or she will:
 - a) Counsel the officer who initially handled the complaint;
 - b) Institute action to achieve the desired result;
 - c) Arrange for the complainant who requested the review to be advised in writing, (normally within eight weeks of the request having been received) of –
 - i. The outcome of his or her review including any revision of the remedial action to be taken in relation to the original complaint;
 - ii. The reason for the outcome; and
 - iii. External appeal options if relevant.
 - d) Arrange for information about the administrative action complaint and its outcome to be updated in Council's General Complaints Register in a manner which facilitates relevant reporting to the executive leadership team and the community via the Council's annual reports.
- 7. In circumstances where the reviewing officer is the Chief Executive Officer, the Chief Executive Officer will inform the Mayor of the outcome of his or her review.

THE DESIGN OF REMEDIAL ACTIONS

Appendix D to this process provides a guide to the design of remedial actions which Council may take following the investigation of an administrative action complaint or the completion of an internal review of the outcomes of an administrative action complaint.

EXTERNAL REVIEW

if a complainant feels Council has not properly dealt with an administrative action complaint internally, he or she may wish to refer the matter to one of the following appeal agencies:

The Office of the Ombudsman
 GPO Box 3314
 Brisbane Qld 4001
 Telephone: (07) 3005 7000
 Facsimile: (07) 3005 7067
 Email: ombudsman@ombudsmand.qld.gov.au

Crime and Corruption Commission
 GPO Box 3123
 Brisbane Qld 4001
 Telephone: (07) 3360 6060
 Facsimile: (07) 3360 6333
 Email: mailbox@ccc.qld.gov.au

Queensland Human Rights Commission
City East Post Shop
PO Box 15565
City East QLD 4002
Telephone: 1300 130 670
Fax (07)3193 9979
Email: enquiries@qhrc.qld.gov.au

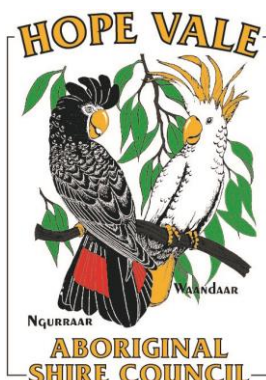
MONITORING AND REVIEW

A council officer nominated by the Chief Executive Officer will maintain a register of all administrative action complaints and occasionally a report will be provided to the Chief Executive Officer.

In accordance with the requirements of the Local Government Regulation 2012 a report will be included in Council's annual report relating to administrative complaints.

APPENDIX A

ADMINISTRATIVE ACTION COMPLAINT FORM



We want to make it easy for you to complain. Simply fill out this form and send it to Hope Vale Aboriginal Shire Council, by mail, email, or fax. If you prefer, you can ring our office or visit our website for advice on how to complain.

Thank you for taking the time to help us improve our services.

Personal Details

Full Name: _____

Address: _____

Telephone (home): _____ Mobile: _____

Email: _____

Preferred way for Council to contact you: _____

Are you the person affected by the matters dealt with in this complaint? ☐ Yes ☐ No

If not:-

Please state your relationship to the person affected:

☐ Parent ☐ Friend

☐ Other (please specify) _____

Please provide information about the affected person on whose behalf you are acting

Full Name: _____

Address: _____

Telephone: _____

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

[illegible]

We take complaints seriously. We will contact you within 14 days of receiving this complaint and advise you what we will do and the expected time it will take. Your information will be treated confidentially.

Date:

Office Use Only**Complaint received by:**

- | | | | |
|------------------------------------|------------------------------------|------------------------------|--|
| <input type="checkbox"/> Telephone | <input type="checkbox"/> Email | <input type="checkbox"/> Fax | |
| <input type="checkbox"/> Letter | <input type="checkbox"/> In person | <input type="checkbox"/> Web | <input type="checkbox"/> Other (specify) |

Date received

Staff member who received the complaint:

Position:

Summary of advice provided to complainant on initial contact:

Complaint referred to

Name:

Date referred:

Summary of any further advice provided to complainant:

Nature of complaint

- | | | |
|---|--|--|
| <input type="checkbox"/> Customer Service | <input type="checkbox"/> Administrative Action | |
| <input type="checkbox"/> Policy | <input type="checkbox"/> Procedures | <input type="checkbox"/> Other (specify) |

Location of complaint

- | | | |
|---|--|--|
| <input type="checkbox"/> Administration & Finance | <input type="checkbox"/> Community Services | <input type="checkbox"/> Building |
| <input type="checkbox"/> Planning | <input type="checkbox"/> Water & Sewerage | <input type="checkbox"/> Civil works |
| <input type="checkbox"/> Waste | <input type="checkbox"/> Parks & Gardens | <input type="checkbox"/> Commercial Services |
| <input type="checkbox"/> CEO & Managers | <input type="checkbox"/> Other (specify) _____ | |

Hope Vale Aboriginal Shire Council is collecting your personal information in order to process your complaint. This information will only be disclosed to any other third party with your written consent or as we are required by law.

APENDIX B

GUIDE TO FACE-TO-FACE COMPLAINT HANDLING

The first step in resolving administrative action complaints is the acceptance of the complaint by Council. It is important that the initial contact is handled well. The environment in which the complaint is taken – if it is made face-to-face – should be private (if possible) and the complainant encouraged to fully express his or her concerns.

In dealing with a complainant face-to-face:

- a) Greet the complainant courteously, give his/her first name and inquire in a positive manner as to how he/she can help.
- b) Treat complainants respectfully, courteously and professionally. Maintain confidentiality where appropriate.
- c) Listen empathetically to what the complainant has to say – everyone appreciates being listened to, so give the complainant time to tell his/her story.
- d) If necessary, for complainants with speech or hearing impairment, arrange to use the National Relay Service (13 36 77).
- e) Use active and reflective listening skills, use positive body language (adopt an open body posture), maintaining eye contact and showing interest.
- f) Take notes of the conversation for later reference.
- g) Seek clarification of any points that are not clear in a non-judgmental way, using open-ended questions that start with how? when? where? who? why?
- h) Ask the complainant about possible remedies to resolve the matter by asking, “How do you believe your complaint can be resolved?”
- i) Make it clear to the complainant that the complaint has been understood by summarising the main points and seeking confirmation.
- j) Provide any relevant information that will assist complainants to better understand the decision or action that they are aggrieved about.
- k) Show empathy - remembering, whether the complaint is justified or not, the complainant’s sense of grievance is real and it is Council’s job to deal with that grievance effectively.
- l) Explain any relevant policy of Council and draw attention to legislative provisions relevant to the administrative action which is the subject of the complaint. If possible, provide the complainant with a copy of the relevant provision of the policy or legislation.

Where appropriate, apologise:- If an apology is warranted, offer an apology there and then. It may sometimes be necessary to express regret without accepting blame on behalf of Council.

Be polite:- Be positive and focus on solving the problem rather than apportioning blame or finding fault.

Take action:- Take action to rectify the problem presented if it is within your authority to do so. If you do not have the authority to rectify the problem, advise the complainant to whom the matter will be referred.

Let the complainant know of positive consequences:- Inform the complainant about any improvements that have been made as a result of his or her complaint.

Thank the complainant:- Express gratitude for the feedback given.

APPENDIX C

STRATEGIES FOR USE IN THE INTERNAL REVIEW OF THE OUTCOMES OF AN ADMINISTRATIVE ACTION COMPLAINT

1. An officer who originally assessed a complaint for which a review of outcomes is carried out will –
 - a) Play no part in the review of his or her own decisions other than by way of providing information as requested;
 - b) Be informed of the outcomes of the review.
2. Relevant Council documents and records about the resolution of previous complaints will be used, where appropriate; to ensure consistent outcomes.
3. Complainants will be given the opportunity to provide additional information.
4. The review will employ an organised and rational approach and will typically involve:
 - a) The establishment of a list of people to be interviewed and files and locations to be inspected;
 - b) Relevant interviews, the inspection of relevant sites and documents and the gathering and recording of information;
 - c) Ongoing sharing of information with people involved in the review;
 - d) Giving people an opportunity to comment on information adverse to them before deciding to act on such information (natural justice);
 - e) Complying with any legal requirements involved in making decisions;
 - f) Evaluating collected evidence and making findings;
 - g) Identifying factors that contributed to the complaint arising.

APPENDIX D

REMEDIES

In the event that:

- The investigation of an administrative action's complaint finds that the relevant administrative action was incorrect – either in part or in full; or
- The internal review of the outcomes of an administrative action complaint finds that the Council did not correctly respond to the complaint – either in part or in full Council will attempt to remedy the situation.

Any remedy offered by Council will be appropriate to the relevant administrative complaint and, should, as far as possible, put the affected person or complainant in the position he or she would have been in had Council's actions and decisions been correct in the first place.

This may not be possible in all cases because of the passage of time or events. In such cases, Council may need to consider other ways to fairly respond to the original complaint.

In designing remedial actions, consideration will be given to the following principles:

- a) Fair and Reasonable — any remedy provided should be fair and reasonable to the complainant and Council. Whilst there may be no legal obligation to provide a remedy, there may be a moral obligation to take steps to redress any disadvantage caused.
- b) Equal Treatment for Equal Circumstances — in seeking to provide fair outcomes, Council will endeavour to be consistent. Previous remedies applied in similar past circumstances may be a guide to suitable outcomes for current situations. However, changes in policy position or specific fact of individual situations will also be taken into consideration.
- c) No Abuse of Power — Council must not take advantage of its position of authority (in particular its knowledge and resources) to avoid or reduce its obligation to provide a fair remedy to the complainant.
- d) Comprehensive Resolution of the Complaint — the remedy should cover all issues raised in the original administrative action complaint.
- e) Explanation — an explanation of Council's decision regarding a remedy is to be provided to the complainant.
- f) Timeliness — Council is to provide the remedy in a timely fashion, in accordance with the Performance Standards established elsewhere in this process.

Mitigation

In some cases, it may not be possible to completely satisfy the complainant. In such cases, Council may attempt to take some action that improves the situation for the complainant by mitigating the detriment suffered by the complainant.

Consideration may be given to any practical action which the complainant might suggest.

Practices of Council

In some cases, a complaint may identify some failure within Council's own practices, procedures or policies. An appropriate remedy would be to undertake a review of the practices to bring about change so that other people will not experience the problem. The complainant needs to be informed that Council is taking action to rectify a systemic issue.