

	<b>COUNCIL POLICY</b>	
	<b>Administrative Action Complaints</b>	
	POLICY NO	001
	DEPARTMENT	ORGANISATIONAL SERVICES
	PROGRAM	GOVERNANCE AND SAFETY
ENDORSED BY COUNCIL	10 June 2020	Recommendation ORD-2020-115

## 1.0 Scope

This policy details the administrative action complaints procedure of Mackay Regional Council (MRC).

This policy has been developed in accordance with section 268 of the *Local Government Act 2009* and includes the requirements under section 306 of the *Local Government Regulation 2012* for resolving complaints made by affected persons about an administrative action of MRC.

MRC recognises that effective complaints management is integral to good customer service and therefore values all complaints. Whilst MRC encourages a proactive approach to complaints management, the objective of the administrative action complaints procedure is to ensure that the correct legislation, policies and procedures have been followed to make a lawful and reasonable decision.

In addition, some types of complaints will generally be managed separately. These include:

- Competitive neutrality complaints
- Corruption complaints that are required to be dealt with under the *Crime and Corruption Act 2001*
- Human Rights Complaints
- Public Interest Disclosures (PIDS) made under the *Public Interest Disclosure Act 2010*
- Internal complaints relating to staff conduct (i.e. Code of Conduct matters) will be referred to People and Culture to be dealt with under the relevant policies.
- Complaints about Councillor conduct which will be dealt with in accordance with the processes outlined in the *Local Government Act 2009*
- Matters currently being dealt with or have been previously dealt with by a court, tribunal or external complaints agency
- Disputes about legal liability
- Social media comments
- Customer requests
- Complaints about the Chief Executive Officer will be managed in accordance with *MRC Policy No. 100 - Complaints against the CEO* but will be recorded and reported as an administrative action complaint.

## 2.0 Purpose

The purpose of this policy is to direct the approach taken by Council and MRC employees in managing administrative action complaints.

## 3.0 References

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Human Rights Act 2019*
- Australian Standard AS-NZS10002:2014 *Guidelines for complaint management in organisations;*
- MRC Policy No. 100 - Complaints against the CEO
- MRC Policy No. 095 - Competitive Neutrality Complaints
- Administrative Action Complaints Procedure

## 4.0 Definitions

To assist in interpretation the following definitions shall apply:

**Administrative action complaint** shall mean a request for review of an administrative action made by MRC based on an expression of dissatisfaction by an affected person. An administrative action includes:

- (a) a decision or an act
- (b) a failure to make a decision or do an act
- (c) the formulation of a proposal or intention
- (d) the making of a recommendation

In determining if a complaint is an administrative action complaint, it is irrelevant—

- (a) how quickly the complaint was resolved; or
- (b) to which area of a local government the complaint was made; or
- (c) whether the complaint was a written or verbal complaint; or
- (d) whether or not the complaint was made anonymously.

**Affected person** shall mean a person who is directly affected by an administrative action of MRC.

**CEO** shall mean the Chief Executive Officer of MRC.

**Complainant** shall mean the affected person or organisation making a complaint.

**Complaint** shall mean an administrative action complaint.

**Council** shall mean the Mayor and Councillors of Mackay Regional Council.

**Customer request** shall mean a request for MRC to take action in relation to a service it provides to satisfy the needs of a customer or ratepayer, for example a request to fill a pothole or to collect a stray dog, or a request for information.

**Frivolous complaints** shall mean a complaint which is considered to be either minor, lacking in substance or without merit.

**MRC** shall mean Mackay Regional Council.

**MRC officer** shall mean a volunteer or a permanent, temporary, casual or contracted employee of MRC.

**Human Rights Complaint** shall mean a complaint about an alleged contravention of section 58-1 by a public entity in relation to an act or decision of the public entity.

**Strategy, Leadership and Performance Team (SLPT)** shall mean the CEO and all directors.

**The Act** shall mean the *Local Government Act 2009*.

**Vexatious complaints** shall mean a complaint, which is considered to be made maliciously, regardless of its merits, primarily to embarrass, annoy or place an unreasonable burden on a respondent.

## 5.0 Background

MRC recognises the need for an open and responsive administrative action complaints procedure. The *Local Government Act 2009* and *Local Government Regulation 2012* require that MRC adopts a procedure for resolving administrative action complaints. This policy is to be read in conjunction with the Administrative Action Complaints Procedure.

Human Rights have been considered when preparing this Policy.

## 6.0 Policy Statement

MRC is committed to providing a high level of service to its customers and the community, and also acknowledges the right of persons to provide feedback, both positive and negative, and/or to lodge a complaint about an MRC decision or action.

The Administrative Action Complaints Policy and Procedure have been developed to ensure that MRC will respond to administrative action complaints fairly, promptly, professionally, confidentially (subject to any legal requirements) and in a manner respectful to the complainant.

To this end, MRC will endeavor to ensure that:

- Initial complaints that can be resolved quickly via contacting the relevant officer and communicating to the customer by phone are resolved in this informal manner;
- All complaints are treated with appropriate respect for the confidentiality and privacy of the parties involved;
- Anyone who is dissatisfied with a decision or action of MRC can easily lodge a complaint;

- Complainants are provided with information on the complaint's procedure via the MRC website including information about how to make a complaint and how complaints are managed;
- All complainants will be offered assistance in lodging a complaint;
- Each complaint is recorded and initially assessed in terms of its priority, complexity and degree of urgency;
- An acknowledgement receipt of the complaint is provided to the complainant within 3 business days which will include reference and contact details;
- Complaints will be responded to as quickly as possible and in accordance with the timeframes set out in the administrative action complaints procedure;
- Complainants will be informed of the complaint outcome, decision and reasons for the decision. The complainant will also be provided information about available review options;
- Complainants will not suffer any reprisal from MRC;
- Complaints are properly monitored with a view to continuous improvement of MRC services and processes.

### 6.1 Objectives

The following objectives have been established for processing administrative action complaints:

- The fair, efficient and consistent treatment of complaints about decisions and other administrative actions of MRC;
- An Administrative Action Complaints Policy and Procedure that is easy to understand and is readily accessible to all;
- Detection and rectification, where appropriate, of administrative errors;
- Identification of areas for improvement in MRC's administrative practices;
- Increase in awareness of the Administrative Action Complaints Policy and Procedure for MRC staff and the community;
- Enhancement of the community's confidence in the complaint's process and of the reputation of MRC as being accountable and transparent;
- Building the capacity of MRC employees to effectively manage complaints in an environment of continuous improvement.

### 6.2 Frivolous or vexatious complaints

In assessing a complaint, consideration can be given to whether the complaint should be deemed frivolous or vexatious.

Where an MRC officer recommends there be no further action or investigation, the officer must advise the CEO of the recommendation including the implications of, and rationale for, the recommendation. If the CEO is in agreement and is satisfied with the reasons presented, a decision can be made to take no further action on the matter.

Complainants will be informed of this decision and reasons for the decision. The complainant will also be provided information about available review options.

### 6.3 Anonymous complaints

Complaints received anonymously are to be accepted and are to be processed in accordance with this policy as far as possible.

#### 6.4 Administrative Action Complaints Procedure

The Administrative Action Complaints Procedure is a three-stage process, as outlined below:

##### 6.4.1 **Stage 1 - Initial Complaint**

Complainants are encouraged (where appropriate) to contact the relevant MRC service area in an attempt to resolve the complaint.

The initial complaint will be investigated by an MRC officer and may include talking to those involved and auditing documentation.

Once the investigation is completed a decision, reasons for the decision and available review options will be provided to the complainant and advice of any remedy.

##### 6.4.2 **Stage 2 - Internal Review**

If the complainant is not satisfied with the outcome of Stage 1 they may request a review.

The nature of the complaint will be assessed in accordance with the complaint criteria and a reviewer will be appointed.

The reviewer will be equal to or senior in position to the previous decision makers involved in the matter. The reviewer should have had no previous involvement in the subject matter and be completely independent of both the original decision made and the *Stage 1 Initial Complaint* decision.

The internal review may be undertaken by an officer of MRC or a suitably qualified person external to MRC. This person will be appointed on the basis that he/she has the appropriate knowledge, qualifications, skill and experience to successfully resolve a complaint.

Once the review is completed the complainant will be provided a decision and reason/s for the decision in writing. The complainant will also be provided information about available review options.

##### 6.4.3 **Stage 3 - External Review**

If the complainant remains dissatisfied after progressing through Stages 1 and 2, they can pursue external options - e.g. alternative dispute resolution; complaints agencies such as the Queensland Ombudsman, Queensland Civil and Administrative Tribunal (QCAT) or other avenues of appeal or review.

All complaints must be entered into the MRC electronic complaints management system.

It is the responsibility of all Program Managers to ensure complaints are actioned in accordance with this policy.

## 7.0 Administrative Action Complaint Types and Service Delivery Standards

The Corporate Governance team, in consultation with the relevant program, will assess each complaint received and determine the appropriate complexity according to the criteria outlined in the table below in order to establish the service delivery standard for processing time against which performance will be measured:

Type of complaint	Criteria	Decision Timeframe
<b>Low Complexity Complaints</b>	Low complexity complaints require no investigation and can be easily addressed through the provision of information, or through negotiating a desired outcome, perhaps through face-to-face or over the phone - a written response may not be required. Low complexity complaints should be managed at the program level.	Up to 10 business days
<b>Medium Complexity Complaints</b>	Medium complexity complaints may require some research into the matter; it might also require some negotiation/facilitated discussion with the complainants or consultation with other areas of MRC. They are rated a medium complexity and typically include issues that relate to a single incident or a decision. Some investigation or fact finding of the complaint issues may be required. Typically, medium complexity complaints contain a small number of issues. A written response is required.	Up to 30 business days
<b>High Complexity Complaints</b>	<p>High Complexity Complaints are matters where there are a large number of complaint issues; or where the complaint issues may refer to possible systemic concerns. These matters will typically involve complainants providing very detailed and lengthy background information that requires time to address.</p> <p>The matters can be of a very complex nature which may involve working with a number of programs in order to reach an outcome. Formal investigation may be required, involving assessment of information, and may involve interviews or discussions with staff and other relevant persons, including external consultation.</p>	Up to 45 business Days
<b>Human Right Complaints</b>	When an individual feels that they are the subject of MRC's failure to act compatibly with human rights, they can make a complaint directly to MRC. These complaints will be assessed against the Human Rights Act 2019.	45 Business Days

If necessary, the Manager Governance and Safety may extend the timeframe for processing an administrative action complaint to 60 business days. If an extension is granted, the complainant is required to be notified before the expiry of the initial timeframe.

**8.0 Reporting**

A report detailing the performance of the administrative action complaints procedure will be made available through the MRC Annual Report which is published each year.

Regular reports will also be made available to SLPT for analysis to identify trends, systemic issues and potential improvements.

**9.0 Review and Auditing**

MRC is committed to continually improving its services and will monitor agreed system improvements resulting from the review of complaints.

Periodic reviews and self-audits of the effectiveness of the administrative action complaints procedure will occur and include an evaluation of the major elements including; compliance with the policy, procedure and guidelines including complaints capture, recording and internal reporting, time taken to manage complaints, correctness of complaint outcomes.

**10.0 Review of Policy**

This policy will be reviewed when any of the following occur:

- 1. The related documents are amended or replaced.
- 2. Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three years.

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	Review		Endorsed by Council	25/01/17
2	Audit	Changes to definitions	Council	24/10/17
3	Review	Amendments to Policy	Council	10/06/20