

Policy Type	Statutory
Function	Governance
Policy Owner	Chief Executive Officer
Policy Contact	Senior Governance Officer
Effective Date	9 August 2022

Purpose

The purpose of this policy is to confirm Council's commitment to a fair and robust complaints management process. Council acknowledges that from time-to-time members of the public may not be satisfied with the actions taken or decisions made by Council. As such, Council acknowledges that people have the right to express their dissatisfaction.

This policy and the associated procedures aim to:

- provide guidelines for a clear and transparent process for complaints;
- improve customer satisfaction and service delivery through a proactive complaint handling process;
- ensure the process of making a complaint is kept simple;
- ensure the process for dealing with complaints is effective and efficient;
- improve Council services;
- improve community confidence in Council.

Scope

This Policy applies to the following complaint types:

- administrative action complaints; and
- competitive neutrality complaints.

Exceptions

This policy does not apply to:

- complaints that can be dealt with through a process identified under other legislation;
- complaints about the conduct or performance of Councillors;
- complaints about corruption;
- Public Interest Disclosures; and
- service requests e.g. pothole that needs patching, a stray dog or a broken water meter.

The complaint types listed above are dealt with under separate Council policies or procedures.

Policy Statement

Burdekin Shire Council is required, in accordance with the *Local Government Act 2009*, to establish a complaints management process for resolving administrative action complaints. Council's process is reflected in this policy document, the associated Administrative Action Complaints Procedure (Appendix A) and the Managing Unreasonable Complainant/Customer Conduct Guideline (Appendix B). Council also has a separate process for dealing with competitive neutrality complaints (Appendix C)

These three documents support the local government principles¹ of ethical standards of behaviour and transparent and effective processes to deliver good governance for the community.

Council is committed to the following principles when managing complaints:

Fair and objective: Complaints are considered on their merits and addressed in an unbiased and equitable manner, the principles of natural justice are observed and complainants will not suffer any reprisal from Council.

Accessible and visible: This policy and the associated procedures are readily accessible on Council's website and available on request. Assistance is provided to those with special needs.

Confidential: Complaint information is managed according to the *Information Privacy Act (IPA)* and Council's Privacy Policy.

Client focus and responsiveness: Complainants are treated with respect, courtesy, dignity and fairness. Complaints will be acknowledged, responded to quickly and efficiently and complainants will be kept informed of the progress of the complaint.

Effective: Where possible, a complaint will be resolved without the need for a formal investigation. Employees at all levels are empowered to resolve issues, wherever possible, when they are first raised by the customer.

Continuous improvement: Council aims to achieve the appropriate outcome and where necessary, implement acceptable redress. Complaints provide an opportunity for identifying business improvements, whether or not a complaint is upheld. Where applicable, the outcomes from complaint investigations are applied to improve business operations, policies and procedures.

Open and accountable: Investigation outcomes are provided to the complainant along with advice on avenues of review. If a complaint will not be investigated, the Council will provide notice to the complainant, together with reasons for this decision. Regular reports will be provided to Executive Management and Council about the resolution of complaints. Particular information relating to the effectiveness of the complaint management process will be included in each Annual Report.

Safety of officers: Council aims to ensure the safety of all Council Officers, including those managing complaints. Unreasonable complainant conduct will be managed using the guideline found at Appendix A of this policy.

Impact on resources / business: Where multiple complaints are received raising the same or similar issues, an effective and efficient method of dealing with them will be determined. The investigation of a complaint matter will not halt, delay or interfere with Council's usual business activities or prevent decisions from being made unless exceptional circumstances prevail. Complaints may not be investigated if:

- the complaint is trivial; or
- the complaint concerns a frivolous matter or was made vexatiously (vexatious complaints); or
- the complainant does not have a sufficient or direct interest in the administrative action that is the subject of the complaint; or
- in the circumstances, investigating the complaint is unreasonable or unjustifiable.

Mutual Rights and Responsibilities and Obligations: Throughout the complaints management process, complainants and Council officers carry mutual rights, responsibilities and obligations including the provision of factually accurate and truthful information and courtesy. Inappropriate complainant conduct will be managed according to the guideline which is found at Appendix B of this policy. Inappropriate officer conduct will be managed in accordance with Council's Code of Conduct for workers.

¹ See section 4 of the *Local Government Act 2009*

Proper consideration of Human Rights: In all steps of the complaints management process, including investigation findings or decisions, proper consideration will be given to requirements of the *Human Rights Act 2019*.

Right to Review: Complainants have the right to seek a formal review of the outcome of a complaint investigation. The CEO or his delegate is able to conduct an internal review of the investigation and its findings and recommendations. Complainants may also take their complaint to the Queensland Ombudsman if they feel that Council has not adequately responded to their complaint.

Risk Management

Council's adopted Enterprise Risk Management Framework will be applied to all complaint management processes. Risk assessments (formal and informal) will be carried out to identify high-risk complaint matters and to decide on the appropriate treatments. Officers should refer to Council's ERM Framework for further information pertaining to Council's risk appetite and agreed escalation plan once risks have been identified and rated.

Legislation

Human Rights Act 2019

Information Privacy Act 2009

Local Government Act 2009

Local Government Regulation 2012

Ombudsman Act 2001

Public Interest Disclosure Act 2010

Right to Information Act 2009

Definitions and Abbreviations

Administrative Action Complaint	is a complaint that: <ul style="list-style-type: none">• is about an administrative action of a local government including the following:<ul style="list-style-type: none">○ 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 failure to do an act;○ the formulation of a proposal or intention; or○ the making of a recommendation; and• is made by an affected person.
Affected Person	is a person who is apparently directly affected by an administrative action of a local government. Within this policy an Affected Person is referred to as the "Complainant".
Competitive Neutrality Complaints	is a complaint that relates to the failure of a local government to conduct a business activity in accordance with the competitive neutrality principle and is made by an affected person (Section 48 of the <i>Local Government Act 2009</i>).
Frivolous Matter	are complaints deemed to be trivial or unreasonable in nature, typically made with the intent of causing a nuisance.

Natural Justice a set of principles to ensure fair and just decision making, including a fair hearing, an absence of bias, decisions based on evidence and the proper examination of all issues.

Public Interest Disclosure (PID) is a disclosure under Chapter 2 of the *Public Interest Disclosure Act 2010* and includes all information and help given by the discloser to a proper authority for the disclosure. The *PID Act* provides unique protections from reprisal for public officers disclosing information in the public interest and to an appropriate entity about:

- official misconduct;
- maladministration;
- waste of public funds;
- negligent or improper management; or
- a danger to public health, safety or the environment.

Unreasonable can be defined as any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint.

Vexatious Complaints are complaints received without sufficient ground aiming to cause annoyance or harm to the subject of the complaint.

Appendixes

Appendix A – Complaints Management Procedures

Appendix B – Guideline for Managing Unreasonable Complainant/Customer Conduct

Appendix C – Competitive Neutrality Complaints Process

Related Documents

Reference Number	Document Title
ECM1068863	Code of Conduct for Workers
GOV-POL-0018 GOV-PRO-0003	Public Interest Disclosures Policy and Procedures
GOV-POL-0014	Complaints Regarding Corrupt Conduct of the CEO Policy

Document History and Version Control

Title of Document	Complaints Management Policy
Document Reference Number	GOV-POL-0017 Rev 3
Review Schedule	24 months
Council Meeting Date	9 August 2022
Council Resolution Number	1712763

Appendix A

[Administrative Action Complaints Management Procedure](#)

Appendix B

[Guideline for Managing Unreasonable Complainant Customer Conduct](#)

Appendix C

[Competitive Neutrality Complaints Process](#)

Purpose

This procedure outlines the process by which Council receives, manages and responds to administrative action complaints.

The procedure aligns with the principles detailed in Council's Complaints Management Policy.

Introduction

What is a complaint?

A complaint, when considered in the context of Council's Complaints Management Policy and this procedure, is a complaint which is about an administrative action of Council made by an affected person, i.e., one who is apparently directly affected by the administrative action. An administrative action includes a decision, a failure to make a decision, a failure to provide a written Statement of Reasons for a decision when required, an act, a failure to do an act, the formulation of a proposal or intention and the making of a recommendation. A person may state that they are making a 'complaint', but this may not be an administrative action complaint, or the person may not be an affected person. Their issue may be a request for service (which is not a complaint unless Council fails to provide an appropriate response or action), a request for information or an expression of opinion.

Administrative action complaints should clearly state why the affected person believes Council's actions or decisions are incorrect.

Examples of administrative action complaints

The following is a list of administrative action complaint examples. This list is not exhaustive.

A complaint about:

- Council's failure to action a request to fix a pothole in the person's street or other place they regularly travel;
- a development approved by Council affecting a person in the neighbourhood;
- a repeated complaint by an affected person about the general quality of park maintenance;
- Council's failure to take appropriate action following a request by an affected person to investigate e.g., barking dog or overgrown allotment;
- inappropriate disclosure of a person's personal information (breach of privacy);
- the amount of a charge or rate unless these are set by legislation;
- competitive neutrality complaint;
- complaints received in respect of water and sewerage services.

Note – a person must be an "affected person" for the above complaint types to be considered administrative action complaints.

Examples of requests for service commonly mistaken for an administrative action complaint

The following is a list of requests that are sometimes mistaken as administrative action complaints. Although a customer may state that they "wish to make a complaint" in many cases, their issue can be resolved as a request for service. The following list is not exhaustive.

A request for:

- grass to be mown;
- dirty BBQ equipment in a park to be cleaned;
- a pothole to be fixed;
- a drainage issue to be investigated;
- a missed rubbish service to be collected;
- repair to a leaking water meter.

The matter is not a complaint if it relates to:

- a request for information about Council services, policies or procedures;
- a request for service or action to be taken in relation to a service or product provided by Council, such as branches trimmed on a footpath tree or rubbish bin to be fixed;
- a suggestion for a proposed service or product improvement, such as potholes or fallen branches;
- a suggestion for a proposed service or product improvement, such as additional kerbside clean-up events;
- an enquiry or request for clarification or more information, such as a question about the fire levy on a rates notice;
- a follow up or further request for service that has not been completed by Council but is still within the timeframe advised to the customer, such as the customer was told their rubbish bin would be collected within three days and the customer contacted Council again within one day;
- a petition to Council about a particular matter;
- a matter that is outside of Council's jurisdiction (e.g., it is a State or Commonwealth government issue).

Is the person an affected person?

Determine whether the person is sufficiently directly affected by the matter, rather than having only an intellectual or emotional interest in the subject.

Even if a complainant is not deemed to be an affected person, consideration should be given to factors that may still warrant the matter being treated as a complaint, such as the impact of the issue on the Community and/or Council.

Procedure

Where a matter has been identified as a complaint, the following procedure will be applied. There are six steps in the management of administrative action complaints:

1. Receive
2. Record
3. Assess
4. Respond and Resolve
5. Communicate with Complainant
6. Report

Receive

Lodging a complaint

Customers may make an administrative action complaint in any of the following ways:

- telephone Council's Customer Service Centre on (07)47 839 800;
- send a fax to (07)47 839 999;

- visit the Council office at 145 Young Street, AYR QLD 4807;
- go online to www.burdekin.qld.gov.au.

The officer receiving the complaint should, where possible, obtain at least the following details:

- name and contact details of the complainant;
- the basis of their complaint (e.g., Customer states they were not provided for reasons of a Council decision)
- basic details of their complaint (when, where, what and who it involves);
- the complainant's desired outcome.

Assistance

Council will ensure administrative action complaints are received with sensitivity and will endeavour to take into account any special needs of the complainant.

Anonymous Complaints

Council will accept anonymous administrative action complaints however, information such as the complainant's name and contact details will assist Council to deal with complaints more effectively. If sufficient information has not been provided in a complaint made anonymously, it may be dismissed without further action.

Early Resolution

Whenever reasonable and possible, the early resolution of complaints is favoured. When a complaint is received, if a simple and reasonable resolution can be identified, there is no need for the complaint to be escalated to an investigation.

Council officers who receive information that *may* constitute a complaint will refer the information to the Customer Service Centre so that it can be formally captured in the complaints management system. The CEO, Director Corporate and Community Services or the Senior Governance Officer should be consulted if there is any doubt as to if the matter is an administrative action complaint.

Record

Complaints received via correspondence will be registered in Council's records management system and will also be entered in the complaints management system by the Customer Service Centre. Highly sensitive or confidential complaint matters may be managed outside of the customer request system however, normal record management principles will apply, and the same complaints management process will be followed.

The complaint information will be recorded in Council's customer request system as a complaint. The request will then be automatically forwarded to the complaints management team. The complaints process will be overseen by the Governance Unit.

The complainant will be provided with a complaints reference number in acknowledgement of their complaint. Further, the Senior Governance Officer may either by phone, email or letter further acknowledge receipt of the complaint, unless this is not possible (as in the case of an anonymous complaint) or in circumstances where the matter is deemed not to be a complaint. In the latter case, the Customer will be sent correspondence explaining Council's actions or decisions regarding their complaint.

It is essential that every action and decision made regarding the complaint is recorded in the complaints database from the beginning of the complaints process right through to the final resolution.

Assess

The Senior Governance Officer will coordinate the collection of sufficient information about a complaint so that an initial assessment of the matter may be made. This may include consultation with the CEO and

relevant Director or other employees unless there is a specific reason why such consultation cannot occur (such as when the complaint may involve those people). The initial assessment will help to determine if the complaint should be investigated. An initial assessment of each complaint is to be completed within 3 business days from receipt of the complaint.

Complaints will be assessed to determine any Human Rights implications and to determine if the matter is a Public Interest Disclosure.

Information obtained at this stage should include:

- the basis of the complaint (why does the individual believe Council have taken the wrong action or made the wrong decision)
- the specifics of the complaint (who, what, when);
- the complainant's desired outcome;
- any other information that may assist in determining an appropriate response.

Consideration should always be given to contacting the Complainant, preferably by telephone, to seek further clarity about the particulars of their complaint and their desired outcome.

Matters involving suspected official misconduct should be referred immediately to the CEO without any further action being taken.

Generally, every complaint will be investigated following the initial assessment, unless it comes within one of the following categories:

Trivial, Vexatious of Frivolous – The complaint lacks substance or credibility, is not made in good faith, or is unreasonable in nature. The complaint may have been made on insufficient grounds with the aim of causing annoyance or harm to the subject of the complaint.

Indecent, Disrespectful or Vulgar – The complaint is made using rude or intemperate language or the complainant is physically harassing or stalking a Council officer. These complaints may not be responded to or may be returned.

Matter previously dealt with – The complaint has already been the subject of an investigation and final review and the complainant attempts to reopen it by raising the same issue or issues of substantially similar nature such that a further investigation would be unnecessary, unjustifiable or an inappropriate use of resources.

Lapsed, irrelevant or obsolete matter – The complaint is made 12 months or more after the matter arose, the matter is no longer relevant due to the passage of time, investigating the complaint would be an inappropriate use of resources.

Insufficient information from anonymous complaint – The complaint has been made anonymously and there is insufficient information to investigate.

Lack of cooperation from complainant – The complaint is of a complex nature and the complainant refuses to put the matter in writing or provide relevant information for an investigation. The complainant in some way inhibits the investigation e.g., fails to provide information within a reasonable time period or refuses to give the necessary access to a property.

Complaint referred elsewhere – The complainant is pursuing the complaint through an alternative review process, or it has already been reviewed through an alternative review process, e.g., through the Queensland Civil and Administrative Tribunal (QCAT) or the Ombudsman's office.

Complaint made prematurely – The complaint is a request for a review of an administrative action which is subject to legislative or adopted policy timeframes or is subject to an agreed service level framework and the legislative or adopted policy timeframes have not expired or all actions within the agreed service level framework have not been exhausted.

Complaint falls outside of Council jurisdiction – The complaint should have been lodged with a different organisation or Council.

Complaint is about legislated fees – The complaint related to an amount of a charge or rate set by legislation or by resolution of Council.

Where the CEO and/or Directors decide that a complaint will not be investigated, the reasons for this decision should be documented and communicated to the complainant (except in the case of anonymous complaints). Refer also to the guideline dealing with unreasonable complainant conduct (Appendix B to the Complaints Management Policy).

Respond and Resolve

Depending on the scope and scale of complaint matters, all complaints should be handled in a timely manner within the resources available to Council and in order of priority by applying a risk-based approach. All actions taken during this stage of complaint resolution should be documented in the complaints management system. Officer should make file notes to document conversations with involved persons and should ensure that relevant documents are retained and attached to the complaint.

The information gained during the resolution process should be used to determine an appropriate response by Council to a complaint and the Complainant should be advised accordingly. Appropriate responses include but are not limited to:

No Action

Council may decide to take no action if the issue has been resolved or the situation complained about no longer exists. For example, a person might make a complaint that Council overcharged them on their dog registration, but the error had been identified and fixed and they make the complaint before they received the notification of error. In that case it is a valid complaint (that they were overcharged) but no further action is necessary.

In some instances, it may be determined (following a thorough assessment) that an administrative action complaint should not be acted upon, or action discontinued if:

- the circumstances clearly show that a complaint is made frivolously, without grounds, lacking in substance or with the intent to harass;
- the complainant seeks to revisit a previously concluded complaint when no new evidence or material is provided;
- the complainant displays aggressive or abusive behaviour, or threatens or uses physical violence against themselves, a Council employee or property.

In certain situations, it may be clear that despite the dissatisfaction expressed by the Complainant, the issue complained about is the result of a routine Council process and the Complainant has not identified any departure from Council policies, procedures or relevant legislation. For example, a person may complain about their rates being too high but in the absence of any indication that a mistake has been made, no further action is required, other than possibly an explanation as to how rates are calculated. Council may even develop a standard response in such cases however, caution should be exercised, and each complaint should be assessed appropriately in the first instance.

Management Action

If there is sufficient information, Council may respond to a complaint by changing a decision, providing a service or information, correcting a record, waiving a penalty or taking any other action within its power to take in order to resolve the complaint.

For example, a person may complain that despite several requests, their address has not been changed in Council records. A check reveals that a technical error has occurred and once corrected, the Complainant's details are changed successfully. In this case the complaint is valid, but the situation can be rectified immediately.

Investigation

If there is insufficient information, the matter is complex/serious or there is no agreement on the circumstance, then Council may have the complaint investigated. This may be done internally or when a complaint is more complex, serious or sensitive, then Council may choose to employ the services of an external investigator. The level of investigation should be consistent with the seriousness and impact of the complaint. Council officers dealing with complaints must ensure that they act within their power and understand their role. They must act impartially and make their decisions strictly on the facts and relying on corroborating evidence wherever possible.

Investigations will be conducted in a fair, objective and timely manner in accordance with the principles of natural justice (see further details below) and procedural fairness.

The following process will be used for investigations:

- gather and analyse information;
- formulate decisions and recommendations;
- write a report detailing the above;
- submit to an authorised officer for approval.

Investigations can consider oral evidence (from the complainant and relevant witnesses), documentary evidence, technical/professional advice, site inspections, equipment or any other necessary source of relevant information.

The outcome of the investigation will determine an appropriate response from one of the other response categories in this section.

If during an investigation it becomes clear that the complaint is not an administrative action complaint or is another complaint type, the investigation should be immediately discontinued, and the complaint referred or otherwise dealt with appropriately.

Mediation/conflict resolution

In situations where a relationship between Council or an officer and the complainant has broken down then Council may wish to enter into mediation or a conflict resolution process.

Once approved by an authorised Council officer, the appropriate resolution to the complaint should be implemented. In some cases, it may be necessary or prudent to discuss the chosen course of action with the complainant before implementing it.

Principles of Natural Justice

The principles which apply to complaints investigation are:

- a person whose rights, interests or legitimate expectations could be affected by a decision should be given a right to a hearing on any adverse material which is credible, relevant and significant and given reasonable notice to respond;
- a person is entitled to an impartial hearing, i.e., absence of bias by the decision-maker;
- all credible, relevant and disputed issues must be properly examined;
- evidence must support the decision.

Natural justice does not require the source of confidential information to be disclosed. A copy of the material with the confidential information blacked out may be provided or it may be sufficient to provide a summary of the effect of the material.

Communicate with the Complainant

The Manager or Supervisor responsible for dealing with the complaint should regularly update the Complainant. In some cases, it may be appropriate for the Senior Governance Officer to provide these updates. Such updates can be by phone, letter or email as appropriate and should be documented in the customer request system.

At the end of the process, the Complainant should be advised in writing of:

- the process followed by Council to respond to the complaint;
- the outcome and the reasons for it;
- their options to have the matter reviewed (see section 6 below) or refer it to an external agency (e.g., the Queensland Ombudsman's Office) if they do not agree with the outcome.

Reasons for decision

As outlined above, the complainant should be advised of the outcome of the complaint management process and the reasons that decision was made. A statement of reasons:

- expresses the basis for the decision;
- provides transparency;
- allows the affected person to understand the factors taken into account by the decision maker; and
- enables affected persons to identify relevant grounds of appeal if they decide to exercise their review rights.

Advising complainant of possible remedies and redress

In cases where a complaint has been upheld, the complainant should be advised of any remedy or redress, the timeframe in which it will be provided, whether the investigation has led to a policy or process change and the details of the change and timeframe for implementation.

The appropriate form of redress that is fair to both the complainant and Council must be considered. Similar remedies should be offered to all persons in a similar situation. Examples include:

- admission/acknowledgement of fault;
- apology issued;
- change of decision;
- change of policy, procedures or practice;
- change of law;
- refund, remission of penalty, reimbursement or waiver of a debt;
- correction of misleading or incorrect records;
- explanation of how the problem occurred and action to be taken to prevent it recurring;
- repair or rework;
- technical assistance;
- officer training/discipline.

Review Process

If the Complainant is dissatisfied with the outcome of the complaint process or the process itself, they can request a review by the CEO or his/her delegate (except where the CEO is subject of the complaint or otherwise has a conflict of interest in which case the Director Corporate and Community Services will be responsible for the review).

The decision to conduct a review, the resources to be applied and whether a review will be conducted internally or externally will be at the discretion of the CEO.

The Complainant should be advised of the outcome of the review in similar format to Section 5. In the event that the CEO is the original decision maker, and a review has been requested, a determination will be made at the CEO's discretion for:

- the matter to be referred to an external independent assessor; or
- the complainant to be advised to seek advice from the Queensland Ombudsman.

Report

A complaint should be formally finalised and closed at the end of the process. Council will then report on administrative action complaints to allow any trends or systematic issues to be identified that may inform improvements to Council services.

The Senior Governance Officer will report the following to Council on a quarterly basis:

- number of administrative action complaints received;
- number of administrative action complaints resolved;
- number of administrative action complaints remaining unresolved from the previous financial year.

In accordance with requirements of the *Local Government Act 2009*, Council will also include information about administrative action complaints in each Annual Report.

Evaluation and Review

Council's Executive Leadership Team will conduct regular reviews to consider the effectiveness of the Complaints Management System and the Complaints Policy, and this associated procedure.

The review will consider the following aspects:

- *Accessibility* – whether the administrative action complaints process is readily available to members of the community and is user-friendly;
- *Trends* – whether any complaint trends have been identified and if so, proposed action;
- *Effectiveness* – whether timelines for responding to complaints have been met and if not, remedial action proposed;
- *Fit for purpose* – is Council's complaints management system fit for purpose.

Related Documents

Reference Number	Document Title
GOV-POL-0017	Complaints Management Policy

Document History and Version Control

Title of Document	Administrative Action Complaints Management Procedure
Document Reference Number	GOV-PRO-0002 Rev 3
Document Owner	Chief Executive Officer
Section	GOV - Corporate Governance
Review Schedule	24 months

Purpose

The purpose of this guideline is to assist employees to act fairly, consistently, honestly and appropriately when responding to unreasonable complaint conduct.

Objectives

The objectives of this guideline are to:

- ensure equity and fairness for all complainants;
- improve resource allocation and efficiency;
- protect staff health and safety.

Management of Unreasonable Conduct

Council's Chief Executive Officer has the authority to make a decision in relation to access to Council services in cases where a complainant's conduct is deemed to be unreasonable.

The Chief Executive Officer may choose to:

- take no further action on the complaint; or
- decline to acknowledge or act on any future complaints of the same type and/or nature from the same complainant; or
- review the level of service provided to the complainant (applying a risk-based approach).

Further, Council's Chief Executive Officer may choose to manage unreasonable complainant conduct by limiting or changing the way that a complainant/customer can interact with employees and/or access Council services including:

- limiting contact persons – appointing a point of contact in Council for the complainant;
- limiting subject matter – limiting the subject matter of communications that will be responded to under the complaint;
- limiting contact times – limiting a complainant/customer's contact to a particular time of day, length of time and/or frequency;
- limiting contact channels – limiting or modifying the forms of contact that the complainant/customer can have with Council including face to face interviews, telephone and written communications, prohibiting access to Council's premises and making contact through a designated point of contact.

Each case will be assessed by considering all relevant factors associated with a complainant/customer's interactions, including their prior conduct and history with Council.

Council will maintain a register of complainants/customers that have been assessed and managed under this process. A review of this register will be undertaken as required or following a request from employees arising from further incidents involving the complainant.

The CEO has the authorisation to:

- remove the restrictions on complainants/customers;
- modify the restriction on complainants/customers;
- reduce service levels to the complainant by applying a risk-based approach.

The CEO can delegate their power and authority under this policy and guideline to a Director.

Right of Appeal

A complainant/customer is entitled to appeal a decision to change/restrict access to Council Services by lodging an Administrative Action Complaint with Council.

Definitions and Abbreviations

Unreasonable complainant/customer conduct (UCC) is any conduct by a complainant/customer which, because of its nature or frequency raises health, safety or equity issues for the Council or has a disproportionate and unreasonable impact on Council officers, services, time and/or resources.

Unreasonable complainant/customer conduct is divided into five (5) categories:

- *Unreasonable persistence* – continued, incessant or unrelenting conduct by a complainant/customer. Excessive repeated complaints about the same and/or substantially similar matters;
- *Unreasonable demands* – demands (expressed or implied) that are made by a complainant/customer that have a disproportionate and unreasonable impact on Councillors, employees, services, time and/or resources;
- *Unreasonable lack of cooperation* – an unwillingness and/or inability by a complainant/customer to cooperate with Councillors, employees and/or Council’s customer service processes;
- *Unreasonable complaints* – any complaints that are not based on reason or logic, incomprehensible, false or inflammatory or trivial or vexatious;
- *Unreasonable behaviours* – conduct that comprises the health, safety and security of Councillors and/or employees including physical or verbal abuse, threats or harm directed towards them.

References

Queensland Ombudsman’s “Managing Unreasonable Complainant Conduct’ Practice Manual 2nd Edition.

Document History and Version Control

Title of Document	Guideline for Managing Unreasonable Complainant Customer Conduct
Document Reference Number	GOV-GDE-0002 Rev 2
Document Owner	Senior Governance Officer(10009)
Section	GOV - Corporate Governance
Review Schedule	24 months

Purpose

This procedure outlines the process by which Council receives, manages and responds to Competitive Neutrality Complaints, including early resolution of competitive neutrality matters before they become formal complaints.

Introduction

What does competitive neutrality mean in the Local Government context?

Competitive neutrality is the principle that a public sector business or agency undertaking a significant business activity should not have a competitive advantage (or disadvantage) over the private sector solely due to its government ownership. Public sector businesses should compete with private sector businesses on an equal (competitively neutral) basis.

Some examples of competitive advantage may include financial advantages, procedural advantages or regulatory advantages.

Examples of a financial advantage—

A business entity conducting a significant business activity has a financial advantage if the business entity—

- is exempt from paying a local government tax a private sector business must pay; or
- is charged a different government tax from the government tax a private sector business is charged; or
- is charged a lower rate of interest on a bank loan because the State guarantees the loan.

Examples of a procedural advantage—

A business entity conducting a significant business activity has a procedural advantage if the business entity—

- does not have to supply the same amount of information under a government approval process as a private sector business; or
- can access more information for a government approval process than a private sector business can access.

Example of a regulatory advantage—

A business entity conducting a significant business activity has a regulatory advantage if the business entity is exempt (completely or partly) from a government approval process a private sector business must follow.

Any advantage, or disadvantage that the local government business may experience, simply as a result of government ownership, must be neutralized. This is called “competitive neutrality”

The Code of Competitive Conduct specifies how local government can apply the competitive neutrality principle and is contained in Part 2, Division 5 of the Local Government Regulation.

The competitive neutrality principle applies to significant business activities.

In Queensland, the thresholds used to identify a significant business activity in a local government are:

- If the business activity is the provision of combined water and sewerage services, the threshold is 10,000 or more premises being connected to the service (as at 30 June each financial year)
- For any other business type, the threshold is **expenditure** of at least \$9.7m for the financial year ending immediately before the current financial year. ¹

Council is also required to apply the code of competitive conduct to:

- a) A building certification activity; and

¹ Division 2 Section 19 *Local Government Regulation 2012*

- b) A roads activity, other than a roads activity for which business is conducted only through a sole supplier arrangement.²

Each financial year, Council is required to identify all business activities which are prescribed under legislation and decide, by resolution, whether or not to apply the competitive code of conduct to those business activities.

The current prescribed expenditure threshold for prescribed business activities is \$340,000. Expenditure includes operational costs, administrative and overhead costs, costs of resources and depreciation.³

What is a Competitive Neutrality Complaint?

A competitive neutrality complaint is a complaint that –

- c) relates to the failure of a local government to conduct a business activity in accordance with the competitive neutrality principle; and
- d) is made by an affected person.

An affected person is:

- a) A person who competes with the local government in relation to the business activity and claims to be adversely affected by a competitive advantage that the person alleges is enjoyed by the local government; or
- b) A person who wants to compete with the local government in relation to the business activity and claims to be hindered from doing so by a competitive advantage that the person alleges is enjoyed by the local government.

In accordance with section 48(5) of the *Local Government Act 2009*, Council does not have to resolve a competitive neutrality complaint relating to a business activity prescribed under a regulation.

Procedure

There are four steps involved with the management of Competitive Neutrality Complaints:

1. Early resolution
2. Refer
3. Provide information to competition authority (upon receipt of request for information)
4. Receive Recommendations

Early Resolution

Where possible and appropriate, Council will strive for the early resolution of competitive neutrality issues through discussion and the provision of relevant information.

Refer

If a competitive neutrality complaint cannot be resolved through early resolution discussions, it must be referred to the Queensland Competition Authority.

Provide Information

Upon receipt of a request for information from the Queensland Competition Authority, Council will provide the relevant information to the authority.

² Section 47(3) of the *Local Government Act 2009*

³ Section 39 of the *Local Government Regulation 2012*

Receive Recommendations

The competition authority will provide a report to Council with recommendations following the completion of their investigation. Council must decide, by resolution, whether to implement the recommendations in the report. Council must also document the reasons for their decision. This resolution must be made within one month after the competition authority gives the report to Council.

A copy of Council's resolution must be provided to the complainant, the competition authority and if a corporatized business entity is conducting the business activity – the corporatized business entity.

References

Sources	Description
Handbook for making a competitive neutrality complaint.	Queensland Competition Authority document.

Related Documents

Reference Number	Document Title
GOV-POL-0017	Complaints Management Policy

Document History and Version Control

Title of Document	Competitive Neutrality Complaints Procedure
Document Reference Number	GOV-PRO-0005 Rev 1
Document Owner	Senior Governance Officer(10009)
Section	GOV - Corporate Governance
Review Schedule	36 months