

PRO-1116 Administrative Action Complaints

Procedure



PURPOSE

- 1) Council is committed to delivering high quality customer service, whilst acting fairly, ethically, responsibly, and lawfully. Council however acknowledges that sometimes, people may be dissatisfied with an administrative action of Council.
- 2) Council welcomes complaints as a form of feedback and will respond to complaints appropriately and use them as a means to improve our services, systems, procedures and policies.

SCOPE

- 3) This complaints procedure has been established for resolving complaints by affected persons about the administrative actions of Council.

DEFINITIONS

Term	Definition
Administrative Action	Is (a) a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision; (b) an act, or a failure to do an act; (c) the formulation of a proposal or intention; (d) the making of a recommendation
Administrative Action Complaint	As defined in section 268(2) of the <i>Local Government Act 2009</i> : An administrative action complaint is a complaint that – (a) is about an administrative action of a local government, and (b) is made by the affected person
Affected Person	Is a person who is apparently directly affected by an administrative action of a local government.
Affected Person's Agent	Means either a professional advisor e.g. Solicitor or Accountant, or other person acting with authorisation on behalf of the affected person.
Complaint	The Australian Standard AS/NZS 10002:2014 defines a complaint as an expression of dissatisfaction made to or about an organisation related to its products, services, or staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.
Employee	Any person employed by Council regardless of their employment status, and also includes contractors whilst undertaking duties or performing services on behalf of Council.
Level of Service	Means the current capacity of Council to provide services as determined by the funding allocations in the annual budget at the level Council has determined the ratepayers of the region have the capacity to fund.
Natural Justice	Means giving someone who might be adversely affected by a decision a fair hearing prior to a decision being made. Also known as <i>procedural fairness</i> .
Request for Service	Means a request for Council to take action to satisfy the needs of a customer or ratepayer. This may be of a physical nature, such as a request to fill a pothole. A Request for Service is not considered a complaint.
Review	Means to undertake a repeated examination of a past event or decision.

PROCEDURE

OVERVIEW

- 4) These procedures fulfil Council's statutory obligation for dealing with administrative action complaints in accordance with s.268 of the *Local Government Act 2009* and s.306 of the *Local Government Regulation 2012*.
- 5) This Administrative Action Complaints procedure does **not** apply to:
 - i. Competitive neutrality complaints;

- ii. Complaints about the Mayor or a Councillor;
 - iii. Complaints made under the Public Interest Disclosure Act 2010;
 - iv. Complaints about the conduct of staff or a contractor; and
 - v. Complaints about discrimination, equal employment opportunity or industrial matters including Councils Enterprise Bargaining Agreement.
- 6) Complaints about the conduct of staff or a contractor is to be referred to the Chief Executive Officer and will be dealt with in accordance with Council's Employee Code of Conduct, associated procedures, the *Local Government Act 2009* and any other relevant legislation.
- 7) Complaints about the conduct or performance of the Mayor or a Councillor are to be referred to the Chief Executive Officer and will be dealt with under a separate process in accordance with the provisions under the *Local Government Act 2009*.
- 8) A complaint about the conduct or performance of the Chief Executive Officer is to be directed to the Mayor.
- 9) Any person can lodge a complaint alleging corrupt conduct directly to the Crime and Corruption Commission QLD. (www.ccc.qld.gov.au)
- 10) A complaint should not be confused with a **request for service, notification, enquiry** or **suggestion**.
- 11) For complaints covered by this Administrative Action Complaints procedure, Council will endeavour to ensure that:
- i. Anyone who is dissatisfied about a decision or other action of Council, can easily and simply lodge a complaint;
 - ii. Complainants have access to information on the complaints process and, if necessary, assistance to make their complaint;
 - iii. Complaints are responded to as efficiently and quickly as possible;
 - iv. There is a fair, objective, consistent and confidential (subject to legal requirements) treatment of complaints;
 - v. A person whose rights, interests or legitimate expectations could be affected by a Council decision or action has the right to a non-biased, impartial hearing;
 - vi. All relevant, credible and disputed issues are properly examined with Council's decision on a complaint matter being supported by evidence;
 - vii. Complainants, Councillors, Council staff and contractors are treated with respect;
 - viii. Where a complaint is upheld, an appropriate form of redress that is fair to both the complainant and Council is fully considered;
 - ix. Staff are made aware of Council's Administrative Action Complaints procedure with appropriate staff receiving training in all relevant processes and procedures;
 - x. Except for complaints made anonymously, Council will inform an affected person in writing of the Council's decision about the complaint and the reasons for the decision; and
 - xi. Complainants will be provided with information on any internal and external review options available.

PROCEDURE DETAIL

Who can make an Administrative Action Complaint?

- 12) Any affected person can make an Administrative Action Complaint.
- 13) Where there is a need, a complaint can be made by an agent on behalf of an affected person. If a complaint is lodged by an agent, Council will respond directly to that agent.
- 14) Council will take all reasonable steps to confirm that the agent has the appropriate authority to act on behalf of the complainant. Unless the complaint is made anonymously, written authorisation to act as the complainants agent will be required.

Complaining anonymously

- 15) Affected persons are able to make a complaint anonymously if they wish.
- 16) If a complainant does decide to complain anonymously, the need to provide sufficient information for the matter to be investigated is critical. If made anonymously, it will not be possible for Council to clarify or request further information from the complainant. Further, it will not be possible to advise the complainant of Council's decision and the reasons for that decision in relation to the complaint.

How to make a complaint

- 17) Affected persons, or their agent can request assistance from a Council Officer on how to make a complaint by contacting a Council Customer Service centre.
- 18) Council will not tolerate abusive or disrespectful behaviour from persons making a complaint.
- 19) A complainant may make a complaint in any of the following ways:
- Orally, either by telephone or in person;
 - By email to admin@northburnett.qld.gov.au; or
 - In writing
- 20) All written complaints must be address to:
- The Chief Executive Officer
North Burnett Regional Council
PO Box 390
GAYNDAH QLD 4625
- 21) A complainant who makes a verbal complaint will be strongly encouraged to commit the complaint in writing to ensure that all matters relating to the complaint are clearly documented.

Taking action on a complaint

- 22) After receiving a complaint, Council's Chief Executive Officer or delegate will make a decision on how best to deal with the matter.
- 23) Where a complaint is referred to an external entity for consideration, Council will inform the complainant in writing of this action.
- 24) In some cases, Council may invite an affected person to provide further information, including written statements and evidence to support possible legal action, to assist Council to fully understand the concerns, the issue/s to be investigated (where an investigation is to be undertaken) and the outcome or remedy sought.

Assessing a complaint

- 25) Council may refuse to investigate a complaint, or, having started to investigate a complaint, refuse to continue to investigate if it reasonably considers that:
- i. The complaint is trivial; or
 - ii. The complaint concerns a frivolous matter or was made vexatiously; or
 - iii. The complainant is found not to be an affected person; or
 - iv. The complainant has a right of appeal, reference or review, or another remedy that the person has not exhausted; or
 - v. In the circumstances, investigating the complaint is unnecessary or an unjustifiable use of Council resources; or
 - vi. The complaint is made anonymously and there is insufficient information provided to investigate the complaint.
- 26) Other than for complaints made anonymously, Council will provide the affected person with advice of a decision to refuse to investigate the complaint and the reasons for the decision, including any internal or external review options available.

Investigating a complaint

27) An investigation of a complaint will be undertaken by Council in an impartial, objective, and as far as reasonably possible, confidential manner. The investigation of a complaint will typically involve the following stages:

- Information gathering, including discussions and interviews with the complainant, Council staff, Councillors, contractors and third parties (where relevant);
- Analysis of all relevant information obtained;
- Preparation of a report on the results of the investigation, including as appropriate formulation of findings and any recommendations;

Keeping the complainant informed

28) All Administrative Action Complaints will be acknowledged in writing.

29) Complaints will be dealt with as promptly as possible acknowledging that some matters may involve complex issues, including referral to, and /or investigation by external agencies and third parties where required.

30) In providing written acknowledgement to a complainant, where possible, an indication of the expected time frame is to be included.

31) Where extended time frames are likely to occur, Council will inform the complainant in writing accordingly.

Possible remedies and redress

32) If a complaint is upheld, consideration is to be given to an appropriate form of redress that is fair to both the complainant and the Council. Similar remedies should be offered to all persons in any future similar situation.

33) Examples of a possible, or combination, of remedies that may apply include:

- Issue of an apology
- Change of decision
- Change of policy, procedure or practice
- Refund, remission of penalty, reimbursement or waiver of debt
- Correction of misleading or incorrect records
- Repair or rework
- Technical assistance
- Training
- Discipline

Internal review

34) Other than where Council's written decision on an Administrative Action Complaint has been signed by the Chief Executive Officer, stating that the decision is Council's final position on a matter, a complainant who remains dissatisfied with the decision may apply in writing to the Chief Executive Officer seeking an internal review of that decision.

35) An officer equal to, or senior to the original decision maker, and who has no prior involvement or conflict of interest in the subject matter, is to conduct the internal review and provide written advice to the complainant of the outcome of that review.

External review

36) A complainant who remains dissatisfied with Council's decision on an Administrative Action Complaint may seek an external review of that decision from an appropriate oversight agency, including via the Queensland Ombudsman, refer www.ombudsman.qld.gov.au

Privacy and Confidentiality

- 37) Council is committed to the privacy principles of the *Information Privacy Act 2009*. In protecting confidentiality, Council will ensure that the details of the complaint, the investigation and related decisions will be kept confidential.
- 38) Whilst every attempt to protect confidentiality will be made, there may be occasions when disclosure of details of a complaint may be legally required.

Record Keeping and Reporting

- 39) Council will maintain a confidential file for Administrative Action Complaints.
- 40) As required, Council's Annual Report will include various statistical details regarding Administrative Action Complaints. Current requirements for publicly reported information include:
- Number of Administrative Action Complaints made to Council
 - Number resolved under this procedure
 - Number not resolved under this procedure
 - Number not resolved under this procedure from the previous financial year.
- 41) The Executive Leadership Team and Council will receive reports from time to time to enable management to monitor the effectiveness of Council's Administrative Action Complaint system and to further identify, analyse and respond to complaint trends.

ROLES AND RESPONSIBILITIES

First Level Complaints

- 42) First level complaints are complaints which have not previously been reviewed/assessed by Council.
- 43) Non-complex first level complaints may be capable of resolution by staff at the frontline.
- 44) More complex first level complaints should be managed by the relevant operational area and investigated, managed and responded to at the Manager, or Supervisor level.

Second Level Complaints – Internal Review

- 45) Generally, a complaint will not be investigated at the second level (internal review) until it has progressed through the first level process and the complainant remains dissatisfied.
- 46) Internal reviews will be undertaken by the relevant General Manager of the operational area to which the complaint relates providing they were not involved in the first level review, otherwise to the Chief Executive Officer.
- 47) In certain circumstances, it may be appropriate for a complaint to escalate straight to second level internal review having regard to the history of the complaint, complexity, or other reasons deemed appropriate by a General Manager or the Chief Executive Officer.

Governance

- 48) Governance staff will be responsible for administering the Administrative Action Complaints Register and compiling of statistical data for reporting purposes.

APPLICABLE LEGISLATION AND REGULATION

Human Rights Act 2019
Information Privacy Act 2009
Local Government Act 2009
Local Government Regulation 2019
Ombudsmans Act 2001
Public Interest Disclosure Act 2010

RELATED DOCUMENTS

Councillor Code of Conduct
Employee Code of Conduct
Administrative Action Complaints Procedures
Australian Standard AS/NZS 10002.2014 – Guidelines for complaint management

RESPONSIBLE OFFICER

Chief Executive Officer

APPROVAL DATE

28 April 2021

REVIEW DATE

April 2025 (Standard four year term)

REVISION HISTORY

Version	Meeting	Approval Date	History
1	General	15/11/2011	New
2	General	20/04/2016	Revised
3	General	19/07/2017	Revised
4	General	27/06/2018	Revised
5	General	28/04/2021	Revised

APPENDIX 1: FIRST LEVEL COMPLAINTS

The table below outlines the initial assessment and allocation of first level complaints.

How the complaint was made to Council	How the complaint was made to Council
Directly to an operational area	For non-complex complaints, frontline officers may be able to respond to and resolve complaints in the moment, otherwise <ol style="list-style-type: none"> Provide the complaint to the operational area Manager for investigation and response, and the relevant General Manager for information. Advise Governance of the complaint to enter on Council's Complaints Register. If the complaint is made via telephone, the relevant officer should document the complaint details and confirm them with the complainant via email/letter.
Centrally via Council mailbox / post	Council's Records Team to task Complaint to relevant operational area Manager for action and General Manager and Governance for information.
Customer service - telephone or contact centre	The customer service officer can, depending on the customers preference: <ol style="list-style-type: none"> Provide the complainant with the details to make the complaint via email / letter/ online form; or Record the details of the complaint and provide that to the operational area to action (as outlined above); or Obtain the complainant's contact details for the relevant Manager to discuss further.

Guidance for managing and resolving first level complaints

Required item	Guidance
Acknowledgement of complaint	If a complaint cannot be resolved on the frontline, the complaint should be formally acknowledged by a Manager or Supervisor as soon as possible. When providing an acknowledgement, the Manager or Supervisor should also: <ol style="list-style-type: none"> Provide an estimate of the time expected to respond to the complaint; and Contact details for providing further information. For a non-complex matter, the reviewing officer should aim to resolve the complaint within 20 business days.
Investigation process	The investigation process should consider the following matters where relevant: <ol 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; Relevant correspondence and other communications relating to the complaint; and Evidence and other material available to Council.
Decision	At the completion of the investigation, the reviewing officer should make a decision as to: <ol style="list-style-type: none"> Whether the complaint is upheld; and What remedy or remedies (if applicable) will be appropriate.
Remedies available	Remedies available to resolve a complaint may include: <ol 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 operational area Manager must:</p> <ol style="list-style-type: none"> a) Notify the complainant in writing of the decision; b) A summary of supporting reasons for the decision must be included in the response to the complainant. Where relevant, it may be appropriate to explain Council's roles and relevant powers with respect to the particular issues. c) Consider whether a courtesy telephone call is appropriate to explain the decision to the complainant; d) Notify Governance as to the outcome to update the Complaints Register; and e) Provide notice to the complainant that if they remain dissatisfied with Council's response, they can request for an internal review in writing addressed to Council's Chief Executive Officer.
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APPENDIX 2: SECOND LEVEL COMPLAINTS – INTERNAL REVIEW

Guidance for managing and resolving a second level complaint

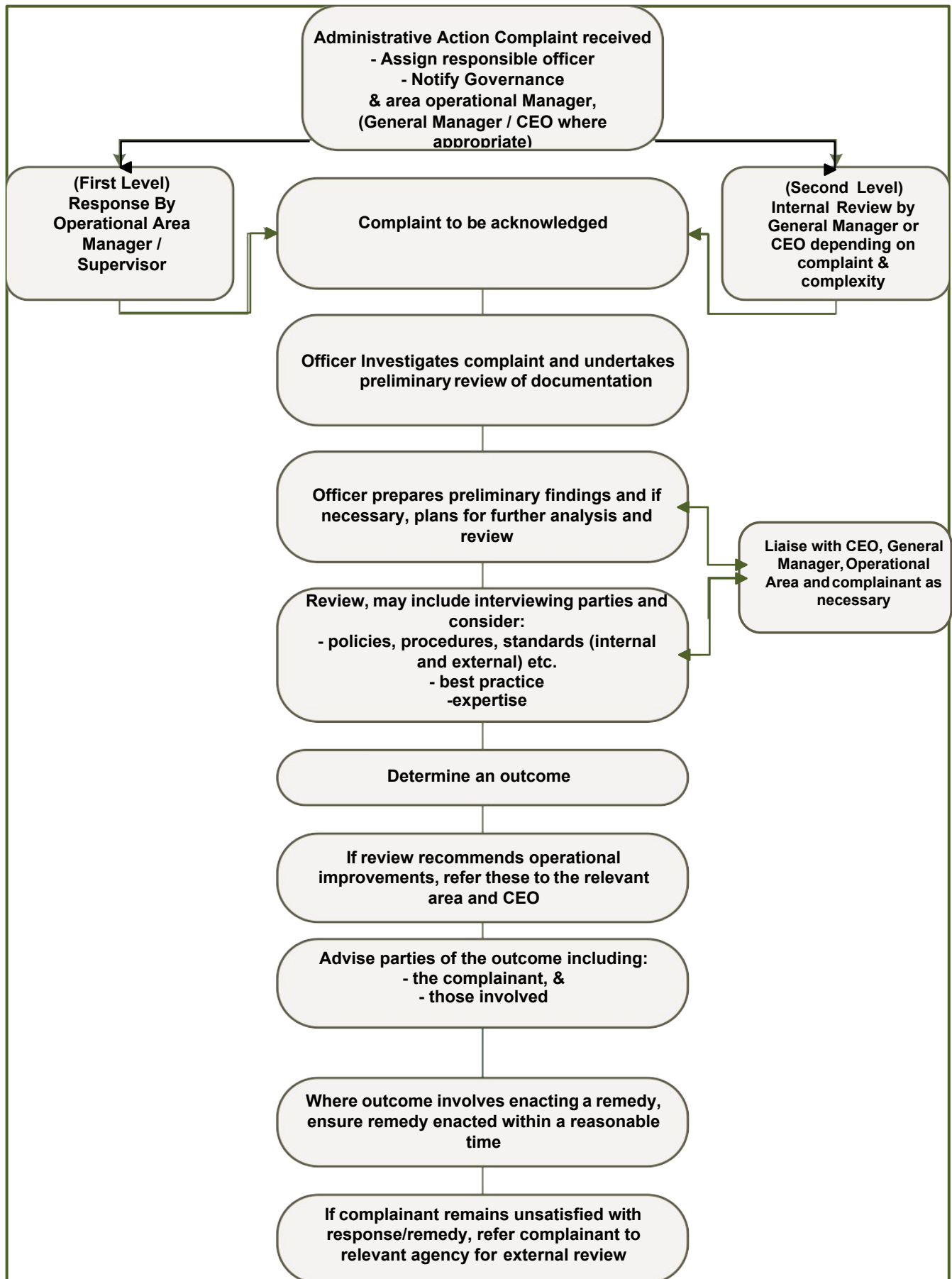
Required item	Guidance
Acknowledgement of request for internal review	<p>A request for internal review should be formally acknowledged by relevant General Manager as soon as possible upon receipt of the request.</p> <p>When providing an acknowledgement, the General Manager, will advise the complainant of:</p> <ol style="list-style-type: none"> a) Their contact details for providing further information (as required); and b) The estimated time expected to complete the review.
Investigation process	<p>The investigation process should consider the following matters where relevant:</p> <ol style="list-style-type: none"> a) Concerns raised by the complainant; b) Relevant Council policies and established processes, local laws and other statutory provisions; c) Relevant correspondence and other communications relating to the complaint; d) Evidence and other material available to Council; and e) Council's first level response and supporting reasons.
Decision	<p>At the completion of the investigation, the General Manager should make a decision as to:</p> <ol style="list-style-type: none"> a) Whether the complaint is upheld; and b) What remedy or remedies (if applicable) will be appropriate
Remedies available	<p>Remedies available to resolve a complaint may include:</p> <ol style="list-style-type: none"> a) Admission of fault; b) Explanation; c) Apology; d) Change of decision; e) Change to policy or procedure; f) Repair/rework/replacement; or g) Further assistance
Notification of decision to the complainant	<p>Once the investigation has been completed, the General Manger must:</p> <ol style="list-style-type: none"> a) Notify the complainant in writing of the decision; b) A detailed summary of the investigation process and supporting reasons for the decision should be included in the response. c) Consider whether a courtesy telephone call is appropriate to explain the decision to the complainant; d) Notify Governance as to the outcome to update the Complaints Register; and e) Provide notice to the complainant that if they are dissatisfied with Council's internal response, they can request for an external review by the Office of the Queensland Ombudsman.

APPENDIX 3:- RECORDING COMPLAINTS

All administrative action complaints will be recorded in a complaint register.

Register	Guidance
Detail to be recorded in the Administrative Action Complaint Register	<ul style="list-style-type: none">a) A complaint reference numberb) The name of the person making the complaintc) Date receivedd) What the complaint is aboute) The outcome of the complaintf) Date the complaint was finalisedg) Follow up action required and responsible officer

APPENDIX 4: FLOWCHART



APPENDIX 5: APPLICATION FOR ADMINISTRATIVE ACTION REVIEW

APPLICATION FOR ADMINISTRATIVE ACTION REVIEW

Council wants to make it easy for you to apply for an Administrative Action Review.

Simply fill out this form and send it to the Chief Executive Officer, North Burnett Regional Council, PO Box 390, Gayndah QLD 4625. If you prefer you can phone Council's Customer Service Centre on 1300 696 272, or visit our website at www.northburnett.qld.gov.au for advice on how to apply for an Administrative Action Review.

You are encouraged to lodge a formal application for an Administrative Action Review so that we may have an opportunity to investigate the matter and respond to your request.

Please Note - the purpose of this form is to request a review of an administrative decision already made by Council. This form should not be used to lodge a request for service or complaint about a matter that is not an administrative decision. Contact the Customer Service Centre on 1300 696 272 if you are unsure whether your matter is in relation to an administrative decision.

All Administrative Action Reviews follow the steps contained within the Administrative Action Complaints Management Process, which is available on Council's website and in Council's customer service centres.

NATURE OF REVIEW

The Administrative Action that I am unhappy with relates to:

- A decision, a failure to make a decision, or a failure to provide a written statement of reasons for a decision;
- An act, or failure to act;
- The formulation of a proposal or intention;
- The making of a recommendation;
- Other (please specify): _____

CONTACT DETAILS

Name: _____

Address: _____

_____ **Postcode:** _____

Telephone: _____ **Mobile:** _____

COMPLAINT DETAIL

Details:

REVIEW DETAIL

Have you previously lodged an complaint with Council about this matter?

- Yes
- No

If yes, please provide your Customer Request Number, the details of who you spoke to, the information that you were given, and the reason that you are still dissatisfied. Please attach any documents that you have from previous contact. Use a separate sheet if needed.

For NEW applications for Administrative Action Review, tell us WHAT happened or failed to happen. WHO was involved? WHEN did it happen? Please make sure that you include as many details as possible and attach any relevant documentation. Attach a separate sheet if needed. If you are making an anonymous application, please provide as much information as possible as Council will be unable to contact you to seek further information.

What would you like to see happen as a result of your application for Administrative Action Review?

DECLARATION

I declare that the above details are true and correct.

Signature: _____ Date: _____

WHAT TO EXPECT

- Council takes administrative action review applications seriously.
- Council will acknowledge your complaint within two (2) business days of receiving this application.
- You will receive a response to your administrative review application within twenty (20) business days. If, for some reason these timeframes cannot be met, you shall receive correspondence outlining the nature of the delay and an estimated date for a response.
- If you have made an anonymous application, you will not receive a response as to the outcome of your application.

Thank you for bringing this matter to Councils attention.

Privacy Notice: Any personal information collected by the North Burnett Regional Council is in accordance with section 268 of the Local Government Act 2009. Information received will only be used by authorised Council officers to investigate complaints and will not be disclosed to any third parties without prior consent unless required to by law. In some cases where complaints have escalated, this information may be disclosed to authorised State government agencies for the purpose of reviewing decisions.

Officers Details

Name: _____

Title: _____

Remedy Sought by Complainant:

Actual Remedy provided:

Signature: _____

Date: _____

Reference No: _____