

PROCEDURE

BUSINESS SERVICES

LEGAL SERVICES



COMPETITIVE NEUTRALITY COMPLAINTS MANAGEMENT PROCEDURE >>

1. PROCEDURE STATEMENT >>

Council will assist people to make complaints, and will process complaints fairly, quickly and professionally.

Council will ensure that:

- anyone who wants to make a complaint about Council can easily do so;
- Council assists people to make their complaint;
- complainants are not disadvantaged or treated unfairly after they make a complaint;
- complaints are dealt with quickly and fairly;
- complainants are informed about the processing of their complaint, the decision that the Council makes, and the reasons for the decision;
- complainants who are not satisfied by the Council's decision about their complaint are informed about how to appeal the Council's decision; and
- complaints are recorded and reported on to help Council provide better services.

2. PRINCIPLES

We are committed to a complaints management system that ensures the transparent, effective and timely resolution of complaints, and that contributes to continuous improvement of Council's services.

3. SCOPE >>

This procedure applies to all potential or actual competitive neutrality complaints that the Council receives or of which it becomes aware.

This procedure does not apply to:

- Administrative Action Complaints, which are dealt with under the Council's *Administrative Action Complaints Policy*;
- complaints about the actions of Council workers which are dealt with in compliance with Council's industrial obligations and relevant laws;
- complaints about the conduct or performance of Councillors, which are dealt with using the process set out in Chapter 6, Part 2, Division 6 of the *Local Government Act 2009*;
- complaints about unlawful or corrupt conduct which are dealt with in compliance with directions received from the Crime and Corruption Commission;
- public interest disclosures which are dealt with under the Council's *Public Interest Disclosures Policy*; and
- complaints about a Council decision for which there is a specific review or appeal processes (for example, planning decisions).

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4. RESPONSIBILITY >>

The Chief Executive Officer, Directors and Chief Officers, General Managers, and Managers are responsible for ensuring that this procedure is understood and adhered to by all workers.

5. DEFINITIONS >>

The **code of competitive conduct** is the code described in section 47 of the *Local Government Act 2009* and Division 5 of Part 2 of Chapter 3 of the *Local Government Regulation 2012*.

A **competitive neutrality complaint** is a complaint that:

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

The **competitive neutrality principle** is used when Council applies the code of competitive conduct to its business activities. Council must apply the competitive neutrality principle to the business activity including by:

- removing any competitive advantage or competitive disadvantage, wherever possible and appropriate; and
- promoting efficiency of the use of resources to ensure markets are not unnecessarily distorted.

QPC means the Queensland Productivity Commission established under the *Queensland Productivity Commission Act 2015*, section 6.

Significant business activity is a business activity of Council that—

- (a) is conducted in competition, or potential competition, with the private sector (including for example Townsville Waste and Townsville Water, off-street parking, quarries, sporting facilities); and
- (b) meets the threshold prescribed under a regulation.

However, a **significant business activity** does not include a business activity that is—

- (a) a building certifying activity; or
- (b) a roads activity; or
- (c) related to the provision of library services.

Workers includes employees, contractors, volunteers and all others who perform work on behalf of Council.

6. PROCEDURE >>

6.1 Competitive Neutrality Complaints Generally

Council will deal with competitive neutrality complaints following the process set out in Division 7 of Part 2 of Chapter 3 of the *Local Government Regulation 2012*.

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6.1.1 Early Resolution

Council invites any person who is considering making a competitive neutrality complaint to meet with Council representatives to enable:

- the person to explain their concerns about the alleged failure of Council's business entity to comply with the competitive neutrality principle in conducting the business activity;
- the person and Council to clarify and if possible resolve the matter before a complaint is made;
- the Council to maintain a record about potential competitive neutrality complaints so that the Council can understand and monitor trends to inform the taking of necessary remedial action.

The Council will offer to meet with the person within five working days of being notified of the person's concerns.

6.1.2 Facilitating Complaints

Council will assist and encourage people to make competitive neutrality complaints by providing them with information about how to contact the Queensland Productivity Commission (QPC) and about the steps they must take to lodge a complaint with the QPC, including that they must provide the QPC with:

- details of the Council's business entity's alleged failure to comply with the competitive neutrality principle in conducting the business activity the subject of the competitive neutrality complaint; and
- information that shows that the person is, or could be, in competition with the Council's business entity; and
- information that shows how the person is, or may be, adversely affected by the Council's business entity's alleged failure; and
- information that shows that the person has made a genuine attempt to resolve the complaint directly with the Council.

In addition to advising a person about how to make a competitive neutrality complaint to the QPC, the Council will itself refer to the QPC as soon as practicable any details of the competitive neutrality complaint that the person has provided to the Council.

6.1.3 Assisting QPC

The Council will assist the QPC to investigate and resolve each competitive neutrality complaint.

6.1.4 Publication of QPC Reports

If the QPC provides a report to the Council about an investigation into a competitive neutrality complaint, the Council will make a copy of that report available as soon as practicable for inspection at the Council's public Office and Customer Service Centres.

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6.1.5 Consideration of QPC Reports

The Council will consider any report provided by the QPC within 1 month of receiving the report. The Council will decide by resolution whether to implement the recommendations contained in that report, stating the reasons for its decision.

The Council will within 7 days of making the resolution, give notice about it to:

- The person who made the competitive neutrality complaint;
- The QPC; and
- Council's business entity conducting the business activity that was the subject of the complaint.

6.1.6 Register of Competitive Neutrality Complaints

The Council will maintain a register of business activities to which the competitive neutrality principle applies that states:

- the business activities to which the Council has applied the competitive neutrality principle, and the date from which the competitive neutrality principle applied to each business activity;
- the business activities to which the code of competitive conduct applies, and the date from which the code applied to each business activity; and
- a list of—
 - (i) current investigation notices for competitive neutrality complaints; and
 - (ii) the business activities to which the complaints relate; and
 - (iii) the Council's responses to the QPC's recommendations on the complaints.

7. LEGAL PARAMETERS >>

- *Local Government Act 2009*
- *Local Government Regulations 2012*

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