



Policy: Investigation of Complaints against Councillors

Head of Power

Local Government Act 2009

1. Objective

The intent of this Policy is to detail how Council investigates complaints about the alleged inappropriate conduct of Councillors as required by the section 150AE of the Act.

2. Definitions

“Act” means the *Local Government Act 2009*.

“Assessor” means the Independent Assessor appointed under section 150CV of the Act.

“Behavioural standard” means a standard of behaviour for Councillors set out in the Code of Conduct approved under section 150E of the Act.

“Conduct” means failing to act and a conspiracy, or attempt, to engage in conduct.

“Council” means the Pormpuraaw Aboriginal Shire Council.

“Councillor Conduct Register” means the register required to be kept by Council as set out in section 150DX of the Act.

“Inappropriate conduct” means conduct under section 150K of the Act.

“Investigator” means the person responsible under this Policy for conducting the investigation of the alleged inappropriate conduct of a Councillor or Mayor.

“Local government meeting” means a meeting of a local government or a committee of a local government.

“Misconduct” means what is defined under section 150L of the Act.

“Model procedures” means what is described in section 150F of the Act.

“Natural Justice” also called Procedural Fairness, means 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.

“Referral Notice” means what is defined under section 150AC of the Act.



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3. Application

This Policy applies to Councillors and the Chief Executive Officer when a complaint is received concerning alleged inappropriate conduct by a Councillor.

4. Policy Statement

Receipt of assessor's referral

- 4.1 On receipt of a referral notice about the suspected inappropriate conduct of a Councillor/s from the Assessor, the Chief Executive Officer will forward a copy of the referral notice to the Mayor and all Councillors as a confidential document.
- 4.2 Should the Mayor or a Councillor/s (other than the subject of the complaint or the complainant) disagree with any recommendation accompanying the Assessor's referral notice or form the opinion that the complaint should be dealt with in a way other than under this policy, the Mayor or Councillor may request the matter be placed on the agenda of the next Council meeting to decide on the appropriate process to investigate the complaint. Such a request must be made in accordance with the Council's meeting procedure requirements.

Investigator

- 4.3 Unless otherwise resolved by Council, the Mayor will manage the investigation of suspected inappropriate conduct of other Councillors.
- 4.4 If the suspected inappropriate conduct involves conduct that in the circumstances, the Mayor believes, it is in the best interests of the investigation to refer the matter for external investigation, then the Chief Executive Officer must refer the suspected inappropriate conduct to the President of the Tribunal to investigate and make recommendations to the Council about dealing with the conduct.
- 4.5 If the suspected inappropriate conduct involves an allegation about the conduct of the Mayor, or the Mayor as the complainant, then the Chief Executive Officer must refer the suspected inappropriate conduct to the President of the Tribunal to investigate and make recommendations to the Council about dealing with the conduct.

Early resolution

- 4.6 Before beginning an investigation, the investigator must consider whether the matter is appropriate for resolution prior to the investigation. This consideration includes any recommendation made by the Assessor.
- 4.7 A matter is only appropriate for early resolution if the parties to the matter agree to explore early resolution.
- 4.8 The investigator may engage an independent person with suitable qualifications or experience to facilitate this process.
- 4.9 If the matter cannot be resolved, the matter will then be investigated as outlined in this



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investigation policy.

- 4.10 If the matter is resolved prior to investigation, the investigator will advise the Chief Executive Officer of this outcome. In turn, the Chief Executive Officer will advise the Mayor (if the Mayor is not the investigator) and all Councillors that the matter has been resolved. The Chief Executive Officer will also update the Councillor Conduct Register to reflect this.

Councillor Conduct Register

- 4.11 The Chief Executive Officer must ensure decisions about suspected inappropriate conduct of a Councillor/s must be entered into the Councillor Conduct Register.
- 4.12 If a complaint has been resolved the Chief Executive Officer will update the Register to reflect that the complaint was resolved.

Expenses

- 4.13 Council must pay any reasonable expenses associated with the informal early resolution or investigation of suspected inappropriate conduct of a Councillor including any costs of:
- the president of the Tribunal in undertaking an investigation for Council a mediator engaged under this investigation policy;
 - a private investigator engaged on behalf of or by the investigator;
 - travel where the investigator needed to travel to undertake the investigation or to interview witnesses, seeking legal advice or engaging an expert.
- 4.14 Council may order the subject Councillor reimburse it for all or some of the costs arising from the Councillor's inappropriate conduct if the allegation is proved.
- 4.15 Any costs incurred by complainants or the subject Councillors will not be met by Council.

5. Related Documents

Code of Conduct for Councillors

6. Review Triggers

This Policy is reviewed internally for applicability, continuing effect and consistency with related documents and other legislative provisions when any of the following occurs:

- The related documents are amended.
- The related documents are replaced by new documents.
- Amendments are made to the head of power which affect the scope and effect of this Policy.
- Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this Policy is to be reviewed at least once every two years



for relevance and to ensure that its effectiveness is maintained.

7. Responsibility

This Policy is to be:

- a) implemented by the CEO; and
- b) reviewed and amended in accordance with the "Review Triggers" by the CEO.



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8. Version Control		
Policy:		Official Version:
Version	Adoption (Council Resolution Number)	Date
Jly 2021	Resolution: 2021/07/13	28 Jly 2021

Approved by CEO:

Signature

