

# Pormpuraaw Aboriginal Shire Council Complaints including Administrative Policy C004

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## Policy Statement

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The Pormpuraaw Aboriginal Shire Council values customer feedback and is committed to an effective complaints handling system that reflects the needs, expectations and rights of customers. Council recognises and appreciates customer rights in relation to providing feedback including the making of a complaint.

### 1. Objectives

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The objectives of this policy are to ensure that Council has an organised way of responding to, recording, reporting and using complaints to improve service to the community. It includes procedures for people to make complaints, procedures for staff to resolve complaints, and provides information to managers and staff that can assist them to prevent dissatisfaction with Council services in the future.

Council strives to provide a level of customer service that does not attract complaints however, when a customer is not satisfied with the service received, Council is committed to resolving the complaint as fairly, promptly and professionally as possible.

The complaint management system governed by this policy aims to:

- *Be fair and objective.* All complaints are considered on their merits and the principles of natural justice are observed.
- *Be responsive and support continuous improvement through integration.* All complaints are dealt with professionally, efficiently and timely. Where applicable, the outcomes from a complaint management process are applied to improve Council operations, policies and procedures.
- *Be open and accountable.* The decisions, written reasons and the outcomes regarding a complaint are made available to the affected person, subject to statutory provisions.
- *Be accessible and simple to understand:* The process facilitates feedback internally and externally from the community in a form that encourages participation.

Performance indicators are set out in the Annual Review and Reporting. These include:

1. The percentage of written complaints acknowledged in 3 days.
2. The percentage of complaints resolved in 30 days.
3. The percentage of complaints resolved by frontline staff.
4. The extent to which complaints were resolved internally.
5. Satisfaction of parties with review process.

## 2. Principles

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### Fairness – Impartiality and Confidentiality

#### Impartiality

Impartiality is the cornerstone of a credible and ethical complaint handling system. Complaint handling staff will not be defensive about Council procedure or of Council staff. A complainant is not obliged to prove they are right or the agency is wrong. All complaints are treated on their merits, with an open mind and without bias.

The Complaints Co-ordinator should provide a full and objective evaluation of the facts or evidence in support of the complaint. Any contrary evidence provided by Council staff should not be given added weight or presumed to be correct. Where one version of events is preferred over another there should be documented reasoning for this.

Special care should be taken in responding to someone who has complained on numerous occasions. No assumptions will be made that such a complaint lacks credibility if similar complaints have been dismissed in the past. All complaints will be treated on their merits.

Complaints about staff members should be investigated by the Complaints Co-ordinator. The views of the staff member concerned will be relevant however, to avoid any perception of bias the investigating member will not originate from the area of complaint. Where complaints are made against the Complaints Co-ordinator an external review will take place.

#### Confidentiality

Clients have the right to expect their complaint will be handled in private and their privacy will be respected. Information privacy principles regarding the collecting, storing, using and disclosing of personal information will adhere to the principles in the *Privacy Act 1988* (Cth). Complaints files will be password protected to ensure restricted access to the files. Except to the extent that is necessary, a complainant's identity or personal details will not be disclosed to other staff.

Anonymous complaints will be investigated as rigorously as possible and the complainant advised of the limitations in relation to such an investigation.

Council will take special measures to ensure that whistleblowers' complaints are received and handled in confidence. A whistleblower will not be subject to reprisals because they have made an allegation.

## **Responsiveness and Integration**

### **Responsiveness**

Council will encounter clients who have particular needs. These needs should not be a barrier to making a complaint. Typical special needs may include hearing impairment which may require TTY (teletypewriter facilities) or visual impairment which requires access to large print information or web-based information. Front line staff should be ready to explain the complaint process to clients who have difficulty understanding written information and provide translator services where appropriate. (Translator Interpreting Service 131450.)

When dealing with vulnerable clients who may have an intellectual disability, poor mental health or addiction problems Council staff will show a readiness to deal with a guardian, friend or advocate who can act on behalf of the complainant. That person's authority to act on the complainants behalf may need to be verified if personal information is involved.

Some complainants may be difficult to deal with by displaying rude and aggressive behaviour, obstinacy in dealing with complaint handling staff, exaggeration or dishonesty in explaining a complaint, unreasonable persistence with a complaint that has been closed, and demands that are unrealistic or disproportionate. Council will deal professionally with such complainants. Staff will be training and given clear guidance and support in dealing with unreasonable behaviour.

## **Open and Accountable**

### **Transparency**

A complainant is entitled to know how a complaint will be handled and the outcome of the investigation by receiving a Statement of Reasons. From the notification of a complaint Council will:

At the time of making a complaint advise the complainant of the steps in the process and expected timeliness standards for handling the complaint.

- A contact name, number and email are provided.
- Correspondence will be sent to the complainant if the problem is not resolved in the expected 30 day timeframe with an explanation why.
- A Statement of Reasons will be given to the complainant explaining the decision.
- The complainant is given the opportunity to respond or seek alternative review if not satisfied with the decision.

## Accessibility- Awareness and Access

### Awareness

Council will tell its clients about the CMS and the Council website will have all necessary information for clients to access the CMS which will explain:

- How the complaint can be submitted and any appropriate forms required.
- Councils' timeliness standards for handling complaints
- Limitations on handling complaints such as special issues that should be dealt with by another body.
- Options available to a complainant if they are dissatisfied with how their complaint was handled or with the outcome.
- Clients with particular needs should be catered for.

### Access

Council will make avenues available for complaint simple and clear. Online lodgement of complaints will be accessible from the front page of Council's website.

A lack of written complaint will not be a barrier to lodging a complaint and complainants will receive all help necessary to be able to lodge a complaint.

## 2. Scope

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This policy defines Pormpuraaw Aboriginal Shire Council's (The Council) system for managing customer complaints. It is made under the *Local Government Act 2009* (the Act) and has been designed to ensure that the broader benefits of an effective Complaints Management System (CMS), to both the Community and Council, are realised.

For the purposes of this policy a complaint is defined as:

- an expression of dissatisfaction with the council’s decisions, policies, procedures, employees, agents, or the quality of the services it provides (Administrative Complaint);
- complaints regarding conduct and performance of a councillor under Division 6 of the Act; or official misconduct by employees, agents or Councillors.

On its own, a request for a council service or the exercise by Council of its regulatory functions is not a complaint.

## **Classification of Complaint**

### **Tier 1**

**Level 1 – Grievance** The complainant contacts Council and expresses concern but does not request any specific action be taken as Council policy and/or processes have been applied correctly. Upon explanation the complainant understands and accepts council’s position. The complaint is resolved at first instance.

**Level 2 – Service Failure** The complainant contacts Council as a service that was expected to be performed was not carried out or carried out but not to the complainant’s satisfaction. This type of complaint will generally be referred to the person in charge of the area responsible for the service. A service request or referral to a manager for resolution finalises the complaint and the matter is closed.

### **Tier 2**

**Level 3 – Problem** The complainant contacts Council and expresses concern and is not satisfied with the explanation given. The complaint will require further investigation and the Complaints Co-ordinator will be required to manage a resolution in line with the CMS procedure. Usually a resolution will be identified and acted upon within defined timeframes.

### **Tier 3**

**Level 4 – Dispute** The complainant contacts Council or an external body notifies Council and expresses concern and is not satisfied with the explanation and outcome provided by the staff member or a manager and requires an internal review of the complaint. Typically this type of complaint will require further investigation and internal review.

## **Grounds For Refusal To Investigate A Complaint.**

In assessing a complaint (including further information provided by the complainant) the Complaints Co-ordinator will consider whether there is a statutory ground on which the complaint may be refused. The Complaints Co-ordinator may refuse to investigate a

complaint or, having started to investigate a complaint, refuse to continue the investigation if the Complaints Co-ordinator and CEO reasonably consider that –

- a) the complaint is trivial; or
- b) the complaint concerns frivolous matter or was made vexatiously; or
- c) the complainant does not have sufficient direct interest in the administrative action or alleged minor breach that is the subject of the complaint; or
- d) both of the following apply –
  - i) the complainant has a right of appeal, reference or review, or another remedy, that the person has not exhausted;
  - ii) it would be reasonable in the circumstances to require the complainant to exhaust the right or remedy before the Officer investigates, or continues to investigate, the complaint;
- e) in the circumstances, investigating the complaint is unnecessary or unjustifiable.

### 3. Definitions

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**Administrative action complaint** is a complaint by an affected person about an administrative action of Council including, for example, a decision, or a failure to make a decision, a failure to provide a written statement of reasons for a decision, an act, or a failure to do an act, the formulation of a proposal or intention or the making of a recommendation.

**Affected person** is a person who is apparently directly affected by an administrative action of Council.

**CEO** Chief Executive Officer.

**Competitive neutrality complaint** 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.

**Complaint** is an expression of dissatisfaction with an administrative action of Council including the failure by council to comply with its obligations under relevant legislation.

**Complaints Officer** is an officer appointed to undertake a First Tier Review of a complaint.

**Complaints Coordinator** is a Council officer appointed to undertake a Second Tier Review of a complaint and to coordinate the collation and reporting of complaints for the purpose of improving Council's processes.

**Complainant** is the affected person or organisation making the complaint.

**Council** is Pormpuraaw Aboriginal Shire Council

**Council officer** includes a permanent, temporary, casual or contract member of the Council's staff.

**Enquiry** is a request for clarification, advice, information or further information about Council services, policies or procedures. Enquiries can usually be resolved in a one off communication.

**First Tier Review** is a review of a complaint by a front line officer or departmental manager.

**Frivolous or Trivial complaint** is a complaint that lacks substance or merit and is considered not worthy of further action.

**Inappropriate Conduct** Is conduct that is not appropriate for a representative of a local government, but is not misconduct. Types of conduct that comprise inappropriate conduct include failing to comply with council's code of conduct, not following procedures and behaving in an offensive or disorderly manner.

**Internal Review** Is either an investigation or review by the Complaints Co-ordinator.

**Misconduct** Is conduct that affects the performance of a person's duties. It represents a breach of trust, misuse of information or a failure to comply with the principles of the *Local Government Act 2009*.

Misconduct is conduct of a person that meets any of the following criteria:

1. adversely affects the honest and impartial performance of the individual's responsibilities
2. is a breach of the trust placed in the person
3. is a misuse of information or material acquired by the individual whether for personal benefit or the benefit of someone else
4. is a repeat case of inappropriate conduct
5. in the case of a Councillor, involves a failure by the councillor to notify council of alleged misconduct, material personal interest or conflict of interest of another councillor.

Examples of conduct that amounts to misconduct BUT NOT official misconduct include:

- a Council officer insulting a customer (does not amount to official misconduct because it is not serious enough to warrant dismissal)



- a single act of sexual harassment of a minor nature that falls short of a criminal offence (does not amount to official misconduct because it is not serious enough to warrant dismissal)
- a Council officer, whose duties involve dealing with children, abusing children in his or her care while acting as a community youth group leader on weekends (does not amount to official misconduct in relation to their employment with Council because the misconduct, though serious, is not connected with the performance of the officer's official duties).

**Official Misconduct** is conduct that could, if proved, be

- a. a criminal offence; or
- b. serious enough to justify dismissal of the person from their position.

Examples of conduct that amounts to official misconduct include:

- an officer cheating on travel allowances;
- a purchasing officer accepting 'kickbacks' in the tendering process;
- an officer manipulating a selection panel decision to ensure that a relative gets the job.

**Procedural Fairness** is concerned with the procedures used by a decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure to be used when making a decision. A decision-maker who follows a fair procedure is more likely to reach a fair and correct decision.

The rules of procedural fairness require:

- a hearing appropriate to the circumstances
- lack of bias
- evidence to support a decision
- inquiry into matters in dispute.

**Queensland Ombudsman's Office** is an independent complaints investigation agency.

**Regional Conduct Review Panel** is a body, created under the Act, which is responsible for hearing and deciding a complaint of misconduct by a councillor.

**Request for Service** is a request for the Council to take action to satisfy the needs of a community member.

**Second Tier Review** is a review of a complaint by the Complaints Coordinator.

**Senior Management Team** is the CEO and senior officers of the PASC such as the Finance Manager, Community services Manager, Operations Manager.

**System for Recording Complaints** is the nominated Council system for recording of complaints called the complaints Management System (CMS).

**The Act** is the *Local Government Act 2009* (Qld).

**Vexatious Complaint** is a complaint which is considered to be mischievous, without sufficient grounds or serving only to cause annoyance.

## 4. Background information

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Council is required to comply with a number of legislative obligations in its administrative actions and the conduct of staff and councillors. These include:

- *Local Government Act 2009* (Qld) and *Local Government Regulations 2012* (Qld)
  - A requirement for a 'general complaints process'.
  - Reporting requirements for complaints.
  - Dealing with complaints about the conduct and performance of councillors.
- *Public Sector Ethics Act 1994* (Qld)
  - A requirement for a Code of Conduct for Officers (Council staff).
- *Crime and Misconduct Commission Act 2001* (Qld)
  - A duty to report official misconduct.
- *Public Interest Disclosure Act 2010* (Qld)
  - A duty to provide protection to people who make a protected disclosure (a complaint about wrongdoing).
- *Information Privacy Act 2009* (Qld)
  - Adhere to the law in relation to collecting, storing and using personal information.

In addition to the regulatory requirement to have a process for handling complaints, an effective complaints system also offers the following benefits to both Council and the community:

- creating a second chance to provide service and satisfaction to dissatisfied members of the public;
- identifying service areas that need improvement; and
- assists planning and allocating resources.
- aligns with Council's objectives to provide good corporate governance through transparency of procedure.

## 5. Confidentiality and Privacy Information

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The confidentiality of witnesses and information is respected at all times. Council's ability to keep information confidential may be limited depending on the seriousness of the suspected misconduct, right to information legislation and other legal processes. Council will collect personal information for the purposes of assessing complaints and to ensure that Council is able to remain in contact with complainants regarding the status of the complaint. Personal information will only be accessed by employees and/or Councillors of Tablelands Regional Council, however in some circumstances it may be necessary for some of this information to be given to:

- an external investigator for the purposes of investigation;
- the person complained about where procedural fairness in the investigation requires it;
- the Queensland Ombudsman in the event that a review of Council's decision is requested;
- Council's solicitor or insurance broker and/or underwriter where legal or insurance advice is required;
- the Crime and Misconduct Commission and Queensland Police Service in the event that the matter involves criminal conduct or official misconduct; and
- other authorised government agencies as required to process the complaint.

Subject to the above disclosures, personal information will not be given to any other agency unless permission has been given or Council is authorised or required by law to do so.

## 6. Complaints Management System Overview

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Council's complaint management system seeks to ensure that anyone who is dissatisfied about a decision or other action of the Council, a Council officer or a councillor, can easily and simply lodge a complaint. Council have adopted a three tiered approach to complaint management as experience elsewhere suggests that this model is the most effective, with the majority of complaints being resolved at the first-tier.

### **Tier 1: Frontline complaint handling**

**Level 1 and 2 Complaint** - Staff empowered with clear delegations to resolve complaints wherever possible at first contact.

Staff to log complaint details in management system for later analysis.

## **Tier 2: Internal review / investigation**

**Level 3 and 4 Complaint** -- Complaints Coordinator reviews/investigates unresolved complaints.

## **Tier 3: External review**

**Level 4 Complaint** - Complaints not resolved through internal investigation may be referred to an external party for independent review or to an external agency, such as the Queensland Ombudsman.

All complaints will be lodged in Council's Complaint Management System Register at the time of receipt and, for complaints received in writing or via email, an acknowledgment will be sent within 3 days of receiving the complaint. Council acknowledges that in certain circumstances a person may prefer to remain anonymous when making a complaint. Whilst not encouraged as this may compromise the quality of the investigation, Council respects this right and will investigate all complaints received.

Tier 3 complaints will be investigated with the aim of achieving a mutually acceptable resolution and informing service improvements within Council. To facilitate this Council will:

- develop and maintain policies, procedures and training material for Council staff;
- ensure that there are a range of feedback mechanisms available to the public and that these are communicated and accessible; and
- provide a mechanism for continuous improvement through performance reporting.

## **6.1 HOW TO MAKE A COMPLAINT**

A complainant may make a complaint in any of the following ways –

- Orally, either by telephone or in person to a Council Officer or the Complaints Coordinator;
- By email to [ceo@pompuraaw.qld.gov.au](mailto:ceo@pompuraaw.qld.gov.au) or
- In writing (by letter or fax) addressed to the CEO.

All written and electronic complaints should be addressed to the CEO. The complainant's details should be identified so the Council can contact the complainant as required by the Act.

If an oral complaint is received, the CEO, or delegate, may request that the complaint be put in writing if it is of a complex nature or contains complex material.

The Council Officer who receives an oral complaint will record details in the Complaints Management Register electronically. If the complaint is not resolved to the complainant's satisfaction the Officer will refer the complaint for action under the complaints process, escalating the complaint to Tier 2.

## **6.2 LODGING A COMPLAINT ON BEHALF OF ANOTHER PERSON**

If an affected person is unable to lodge a complaint personally, due to poor health, distance, language, legal or other reasons, the complaint may be lodged by another person or agent on their behalf.

An officer who receives a complaint will take all reasonable steps to confirm that the person claiming to act on behalf of the affected person has the appropriate authority to do so. Written authorisation by the affected person must be provided for more serious complaints or matters that may involve disclosing personal information.

If a complaint is formally lodged by an authorised agent, such as a solicitor or accountant acting on behalf of the affected person, responses will be provided directly to that agent.

## **6.3 SELECTING AND APPOINTING COMPLAINTS OFFICERS**

Complaints Officers must not be involved with the service or administrative action that is the subject of the complaint.

### ***Complaints Officers***

- The Chief Executive Officer (CEO) will appoint the Complaints Coordinator.
- The Complaints Coordinator will act as a Complaints Officer as required.
- The CEO and the Complaints Coordinator may select and appoint Complaints Officers if and as required and allocate complaints for investigation. In addition to the Complaints Coordinator, a Complaints Officer may be a council officer or an external provider, who is not involved in the matter that is the subject of the complaint.

## **6.4 ROLE OF THE COMPLAINTS COORDINATOR**

The Complaints Coordinator manages the Complaints Management Process by coordinating activities that support the policy and the resolution of complaints. The Complaints Coordinator:

- Manages the allocation of complaints to complaint officers for investigation;
- Acts as a complaints officer when required;
- Manages the engagement of external providers when an external review is required;
- Provides reports to Council about unresolved complaints;
- Provides reports to the Senior Management Team on complaints data and analysis;

- Provides input to the Annual Report on complaints data;
- Records investigation and review details and outcomes of complaints about services and administrative actions in Council's records management system and within the Complaints Management database.

## 6.5 ACCESS TO COMPLAINTS INFORMATION

While a complaint is open and being investigated, complaints information held in Council's complaint management system, is only available to staff who are required to use the information in the performance of their duties in relation to complaint management. Password protected file restrict access to complainant information.

Once finalised, summary records of complaints that have not been assessed as being about a frivolous matter or as having been made vexatiously, and that would not be governed by the *Public Interest Disclosure Act 2010* (Qld), will be available to the public. The information made available will be governed by the *Information Privacy Act 2009*(Qld) and will not be attributable to specific individuals. The information will be available:

- at Council's Office; and
- on Council's website ([www.pormpuraaw.qld.gov.au](http://www.pormpuraaw.qld.gov.au))

## 6.6 COMMUNICATION

All Council Staff will receive training on how to handle complaints that they may receive. More detailed training, for example training in ethical decision making, investigations/interviewing techniques and Council's complaint management system will be provided to those staff members that are expected to play a more active role in resolving complaints.

The Complaints Management Policy will be published on Council's website with instructions on how to make a complaint. Service standards regarding the management of complaints will also be provided to help manage the expectations of all parties involved.

## 6.7 REPORTING

The Complaints Coordinator will provide quarterly performance reporting to Council's Senior Management Team as part of its continuous improvement program. In addition the following information will be provided in its annual report:

- Council's commitment to dealing fairly with complaints
- a statement about how Council has implemented its complaints management process, including an assessment of its performance in resolving complaints

- the number of complaints made in the financial year
- the number of complaints resolved in the financial year
- the number of complaints not resolved in the financial year
- the number of complaints not resolved in the financial year that were made in the previous financial year.
- the satisfaction level of complainants and resolution

## **7. PROCESSING AN ADMINISTRATIVE COMPLAINT**

### **7.1 TIER 1 - FRONTLINE HANDLING**

#### **LEVELS 1 & 2 – COMPLAINT GRIEVANCE OR SERVICE FAILURE**

##### **PROCEDURE**

Objective: Resolve complaint.

A complaint received by Council in person, by email, in writing or over the telephone should, wherever possible, be resolved by that officer or an alternative officer, with the appropriate training and delegation, at the time of receiving the complaint.

Complaints provided over the telephone or face to face will be actioned immediately by the staff member who will:

- Clearly identify themselves and their position within council
- Actively listen
- Record the details of the customer – name address/email, date of call
- Classify the complaint – Level 1-4
- Determine what the complainant seeks to resolve the matter.
- Be empathic, respectful and calm without apportioning blame.
- Explain the proposed course of action and the timeframe.

If the officer who received the complaint is unable to resolve the matter, it is to be referred to the Complaints Co-ordinator or the CEO. The Complaints Co-ordinator or CEO is required to respond to the complainant in a reasonable timeframe (3 business days) with the intention of resolving the complaint.

##### **Recording and Tracking Feedback and Complaints**

- Enter all details into the CMS Register including the reasons given for Council position.
- Each and every complaint is passed on to the Complaints Co-ordinator for reporting.

The Council officer handling the complaint is responsible for the capture and recording of the data related to the complaint and responding appropriately to the complainant in the first instance. If the affected person is satisfied with the response provided by the relevant area, no further action is required.

All complaints, no matter how trivial, must be logged in Council's complaint management system to ensure that the information is available for review and assessment at a later date.

- A simple complaint lodged orally (by telephone or at the counter) may be responded to orally. Appropriate file notes, including reasons for decisions, are required.
- If the complainant is not satisfied that the complaint has been resolved, a request for an independent review at Tier 2 is to be initiated by the Complaints Co-ordinator or CEO.

## **7.2 LEVELS 3 & 4 – COMPLAINT - PROBLEM OR DISPUTE**

### **TIER 2 - INTERNAL REVIEW / INVESTIGATION**

#### **PROCEDURE**

Objective: Investigate the complaint, provide indicative timeframe for resolution with a view to resolution.

The Complaints Co-ordinator will:

- Contact the complainant and clearly identify themselves and their position within council
- Actively listen
- Record the details of the complainant – name address/email, date of call
- Determine the specific issue and what the complainant seeks to resolve the issue.
- Be empathic, respectful and calm without apportioning blame.
- Explain the process that follows – investigation, internal review and the timeframe.
- The complainant is to be provided with written acknowledgement of their complaint within 3 business days of receipt. This will include an indication of the approximate time it will take to resolve the complaint with the objective to resolve the matter in no more than 30 days.

Level 3 and 4 complaints need to be assessed and investigated. The following criteria will be considered:



- How serious the complaint is and the significance it has for the complainant and Council.
- Requirement for immediate action.
- Complexity of the issue.
- Whether on the face of it Council has not complied with relevant legislation.
- The existence of a systemic problem.
- Alternative and satisfactory means of redress are available.
- Whether the parties are agreeable to informal resolution of the issue.
- Is the complaint frivolous, vexatious or trivial.
- What is the timeframe between the event and the complaint.
- Are there any extraordinary factors.

### **7.2.1 Investigating a complaint**

Level 3 & 4 – Investigating a complaint

#### **PROCEDURE**

The Complaints Co-ordinator will:

- Provide the complainant with a contact name, number and email address.
- decide on the most appropriate course of action for conducting the investigation
- gather information, including discussions and interviews with the complainant, council personnel and third parties (where relevant) and examine relevant laws and council policies and procedures;
- analyse the relevant information obtained;
- formulate their findings and any recommendations for consideration;
- prepare a report on the results of the investigation or the outcome of the complaint if it was resolved during the complaints process or was withdrawn by the complainant.
- Adhere to the timeframes set out such as 3 days for advice of the review with an objective of resolving the matter in 30 working days.
- Natural justice is the foundation for assessment.

#### **POLICY**

The investigation of a complaint will be undertaken by the Complaints Coordinator in an independent, impartial and objective manner. A Complaints Coordinator may, if considered appropriate in the circumstances undertake mediation between the parties with a view to resolving a complaint. The Coordinator will not act as an advocate for either the

complainant, the council or for any council officer or councillor that is the subject of the complaint.

If the Complaints Coordinator has a potential or perceived conflict of interest in regard to the investigation, or the subject of the complaint is more senior than the Complaints Coordinator, another officer must be appointed.

If a complaint is escalated to Tier 2 for review, the relevant Manager will be informed of the escalation by the Complaints Co-ordinator unless doing so will compromise the investigation.

The complaints officer will adhere to the principles of procedural fairness and natural justice when conducting an investigation of a complaint and will ensure that confidentiality about the investigation is maintained to the extent that it can be reasonably achieved, subject to other legal requirements about the disclosure of information.

### 7.2.2 Natural Justice

Natural Justice and Procedural Fairness Principles	Council Responsibilities
Impartiality	The Complaints Co-ordinator will be free from bias demonstrating neutrality in relation to the issue under investigation. Any conflict of interest should be clearly identified and disclosed.
Confidentiality	Information will only be collected that is required to make a decision. Personal information will not be disclosed to another agency unless permission is given or as required by law.
Prior Notice	The complainant will be given prior notice to address any matters that arise during investigation.
Opportunity to Address matters	The complainant will be given a reasonable amount of time to respond to all matters.
Timeliness	Council will inform the Complainant regarding expected timeframes for investigation, review and resolution.
Statement of Reasons for decisions	Written reasons will be provided for decisions made.

The affected person will be advised of the final decision and provided with a Statement of Reasons that describes.

- The relevant Council policies, local laws and other statutory provisions, such as the sections of legislation;
- Correspondence and other communications relating to the complaint;

- Evidence and other material available to Council;
- Findings of fact;
- Any decisions made by Council in regard to the complaint; and
- The reasons for Council's decisions.

If the complaint is sustained, the affected person will also be advised of:

- any remedy to be made available to the affected person;
- if applicable, the circumstances and timeframe in which the remedy will be made available; and/or
- whether the investigation identified the need to revise Council policy, procedure or practice to prevent similar complaints arising, details of the proposed revision and the timeframe for implementation.

If the affected person is satisfied with the Statement of Reasons from the Tier 2 Review, no further action is required.

The Complaints Coordinator will ensure that an affected person is **advised of the review within 3 working days** and will aim to complete the review within 30 working days. Although, the exact timeframe for completing a Second Tier Review will depend on the circumstances including the seriousness, urgency and complexity of the matters to be investigated, the Complaints Coordinator will keep the affected person informed of the progress of the investigation.

Upon completion of the Tier 2 Review, the Complaints Coordinator will consider all available evidence, **make a decision or recommendation and provide a report** on the findings to the CEO for final ruling.

The CEO will consider one or more remedies available from a non-exhaustive list such as:

- Admission of fault
- Explanation
- Apology
- Change of decision
- Change to policy or procedure
- Repair / rework / replacement
- Technical assistance
- Waiver of debt
- Reimbursement of costs incurred as a result of the action in question

The appropriate remedy will be fair to both the complainant and the Council and will aim to restore the complainant to the position they would have been in had the complaint not been necessary.

The complainant's remedy will be considered first and this is reflected in the procedures which require an inquiry into the most suitable resolution sought.

Informal resolution which may involve mediation will be attempted wherever possible and similar remedies will be offered to all persons in the same situation.

### 7.2.3 Timelines for complaints - Generally

Complaints will be responded to as quickly as possible and will depend on an assessment of the following factors:

- The urgency of the situation in terms of loss or damage likely to be suffered if the complaint is not quickly resolved;
- The likelihood that the complaint can be quickly resolved;
- The complexity of the complaint issues; and
- Whether the complaint requires internal or external review.

Timeframe Objectives	
Written Complaint	Response in 3 business days
Complaint Resolution	30 days

Timeframe Response Standards	
Written Complaint	Response in 3 business days
Complaint Assessment	Within 3 days from lodgement
Investigation of Complaint	Commenced within 5 days of assessment if required.
Complaint Response	Within 30 days
Communicating the Decision	Within 30 days
Complaint Resolution	30 days

If the complaint is sustained, the affected person will also be advised of:

- any remedy to be made available to the affected person;
- if applicable, the circumstances and timeframe in which the remedy will be made available; and/or
- whether the investigation identified the need to revise Council policy, procedure or practice to prevent similar complaints arising, details of the proposed revision and the timeframe for implementation.

If the affected person is satisfied with the Statement of Reasons from the Tier 2 Review, no further action is required.

#### **7.2.4 Allegations of Inappropriate Conduct or Misconduct**

In the case that an investigation into an allegation of inappropriate conduct or misconduct determines that the complaint is sustained, the employee's supervisor should address the issue with the member of staff. For more serious complaints, the complaint will be reviewed with consideration of Council's code of Conduct and any breaches of this will be referred to the Human Resources Group.

#### **7.3 TIER 3 - EXTERNAL REVIEW**

If the affected person is not satisfied that a complaint has been satisfactorily resolved, he/she will be informed of any further review mechanisms that are available, and given details of any statutory right of review.

### **8. CRIME AND OFFICIAL MISCONDUCT COMPLAINTS**

Council is building a comprehensive training programme that aims to ensure staff are fully aware of the behaviour expected of them in their role within Council. However it is a requirement of the *Crime and Misconduct Commission Act 2001* that even a suspicion that a complaint or matter involves, or may involve, official misconduct must be reported to the CMC. There is no requirement for any preliminary inquiries, nor is it necessary to have evidence reaching any particular standard

If a complaint involves allegations of criminal behaviour or official misconduct, the complaint should be immediately referred to Council's CMC Liaison Officer who will refer the matter to the Police if required. Where appropriate, Council will also investigate the allegation internally using the rules of procedural fairness.

In the case that an investigation into an allegation of official misconduct determines that the complaint is sustained the Human Resources Department will liaise with the employee's supervisor to address the issue with the member of staff.

### **9. COMPLAINTS ABOUT COUNCILLORS**

Complaints about the conduct or performance of a Councillor under Section 176 of the Act should be immediately referred to the Chief Executive Officer (CEO) for review. The CEO

may appoint a mediator and/or investigator, to perform a preliminary assessment of the complaint to determine if the complaint is:

- frivolous and/or vexatious, in which case no further action will be taken and the person making the complaint is advised of the outcome and provided with the reason for this;
- inappropriate conduct, misconduct, official misconduct or another matter (general complaint against local government).

If the Chief Executive Officer assesses that the complaint is:

- **Inappropriate Conduct** - the matter will be referred to the Mayor to consider the appropriate action, which could result in a written reprimand or suspension from a Council meeting. If the allegation is regarding the mayor or deputy mayor, it will be referred to the Department of Local Governments CEO.
- **Misconduct** – Allegations of misconduct will primarily be heard and determined by the Regional Conduct Review Panels. However, more serious cases of misconduct will be heard by the Local Government Remuneration and Discipline Tribunal which has the power to recommend the dismissal of a councillor. Serious cases of misconduct are also considered official misconduct and will need to be referred to the Crime and Misconduct Commission in the first instance.
- **Official Misconduct** – the matter will be referred to the Crime and Misconduct Commission (CMC) for review and if required, investigation.

## **10. COMPLAINTS OF CORRUPT CONDUCT THAT INVOLVES, OR MAY INVOLVE THE CHIEF EXECUTIVE OFFICER**

Any complaints or allegations of corrupt conduct that involves, or may involve the Chief Executive Officer, are to be dealt with under the Complaints Against a Public Official Policy.

-Refer to the Complaints Against a Public Official Policy.

## **11. REVIEW**

It is the responsibility of the Chief Executive Officer and their delegated responsible council officer, the complaints Co-ordinator to monitor the adequacy of this policy and implement and approve appropriate changes.

This policy will be formally reviewed annually or as required by Council.

**This policy is to remain in force until otherwise determined by Council.**

## **12. FORMS AND ASSOCIATED DOCUMENTS**

1. Complaints Management Policy
2. Complaints Management Flowchart A
3. Complaints Management – Procedure - Flowchart B
4. Complaints Management – Flowchart C – Statutory Guide for Complaints Co-ordinator
5. Complaints Management Register
6. Conducting an Investigation – Guide
7. Explanation to Councillors for adoption by resolution.
8. Templates:
  - Interim Report for a Serious/Complex Investigation
  - Statement of Reasons – Internal Record of Decision
  - Statement of Reasons – To Complainant
  - Quarterly Report to Senior Management
  - Annual Report to Senior Management – Annual Review of CMS



## 1. COMPLAINTS FORM

If you have a general complaint you would like to lodge, simply fill out this form and send it to the CEO, Pormpuraaw Aboriginal Shire Council.

If you prefer, you can ring us on 4060 4600.

### Personal Details

Title: \_\_\_\_\_

Family Name: \_\_\_\_\_

Given Names: \_\_\_\_\_

Address: \_\_\_\_\_ Postcode: \_\_\_\_\_

Contact Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_ (mobile) \_\_\_\_\_

Email: \_\_\_\_\_

Other ways to contact you: \_\_\_\_\_

Preferred way to contact you: \_\_\_\_\_

Are you the person affected by the complaint? YES \_\_\_\_\_ NO \_\_\_\_\_

If you are acting on someone's behalf, please advise of his or her details:

Title: \_\_\_\_\_

Family Name: \_\_\_\_\_

Given Names: \_\_\_\_\_

Address: \_\_\_\_\_ Postcode: \_\_\_\_\_

Contact Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_ (mobile) \_\_\_\_\_

Email: \_\_\_\_\_

Relationship to you: \_\_\_\_\_

Does the person affected by the complaint have a disability or other special need?

YES \_\_\_\_\_ NO \_\_\_\_\_ If yes, please specify: \_\_\_\_\_

### Complaint Details

Have you raised the complaint with Council before? YES \_\_\_\_\_ NO \_\_\_\_\_

If yes, please tell us who you spoke with, what you were told and why you are still dissatisfied.

Attach copies of any documentation you have from your previous contact.

## **COMPLAINTS MANAGEMENT CHECKLIST**

- 1. Complaints Co-ordinator appointed by CEO.**
- 2. Complainant contacts relevant service area of Council, Senior Manager or CEO/Councillor to resolve Complaint.**
  - Make a Complaint in any of the following ways –
  - Orally, either by telephone or in person to a Council Officer;
  - By email to ceo@pormpuraaw.qld.gov.au or
  - In writing (by letter or fax) addressed to the CEO.
- 3. Decision by Complaints Co-ordinator whether Investigation is to be undertaken either by way of internal review or external review.**
  - Seriousness of complaint
  - Requirement for immediate action
  - Complexity of the issue
  - Action not compatible with relevant legislation
  - Indicates a systemic problem
- 4. All documentation forwarded to Complaints Co-ordinator.**
  - Messages
  - Notes
  - Record of conversations
- 5. Opportunity for Complainant to provide further information about the Complaint.**
- 6. Complaints Co-ordinator may refuse to investigate complaint on statutory grounds.**

**7. Investigate Complaint.**

- Follow Guide to Investigations

**8. Complaints Co-ordinator to write a report on the results of investigation and any recommendations which is then forwarded to CEO. This report will address:**

- the Complaint issue/s;
- a concise summary of the material facts and the circumstances of the matter;
- any relevant legislation;
- any relevant Council or other policy;
- persons interviewed and/or consulted and relevant information obtained during any interview and consultations;
- results of any relevant research;
- analysis of compliant issues to the extent necessary;
- findings on material questions of fact and law;
- whether the Complaint is sustained and reasons for that finding;

**9. Statement of Reasons.**

- Follow template guide

**10. Remedy for addressing administration actions that it considers to be unfair or wrong.**

**11. Statement of Reasons sent to complainant.**

**12. Implementation of Remedy**

**13. Council review if Complainant is dissatisfied with outcome of Complaint.**

**14. Review by other Complaints entities such as the Queensland Ombudsman**

**15. Every 12 months a review on all complaints received through the complaints process.**

**16. Copies to Governance and Admin**

## 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:

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

Notwithstanding the above, this Policy is to be reviewed annually for relevance and to ensure that its effectiveness is maintained.

## QUESTIONS

If a workplace participant is unsure about any matter covered by this Policy, a workplace participant should seek the assistance of CEO.

## VARIATIONS

*PASC reserves the right to vary, replace or terminate this policy from time to time.  
This policy is to remain in force until 30 June 2014.*

## ASSOCIATED DOCUMENTS

### POLICY VERSION AND REVISION INFORMATION

Policy Authorised by: Edward Natera                      Original Version #1: 01/03/2012

Title: CEO

Policy Maintained by: Catherine Kaehne                      Current version #2: 23/08/2015

Title: Governance and Administration

Review date: 23/08/2016