

Complaints Management Policy

Number:	Stat. 13
Responsible Manager:	Chief Executive Officer
Head Policy:	N/A
Legislation:	Crime and Corruption Act 2001 Local Government Act 2009 Ombudsman Act 2001 Public Interest Disclosure Act 2010 Public Records Act 2002 Public Sector Ethics Act 1994
Associated Policies:	Public Interest Disclosure Policy Code of Conduct Fraud and Corruption Control Plan

Purpose of Policy

Kowanyama Aboriginal Shire Council (KASC) is committed to ensure that the standards detailed in our internal policies and stated in government guidelines and legislation are upheld.

If a breach is identified, Council encourages that a complaint be made so that council has an opportunity to remedy the breach and improve service provision, transparency and accountability. KASC must deal with complaints fairly, promptly and professionally.

This document sets out KASC's policy and procedure for these complaints:

Part 1 - Conduct or Performance of Councillors

Part 2 - Corrupt Conduct Complaints

Part 3 - Competitive Neutrality Complaints

Part 4 - Privacy Complaints

Part 5 - Public Interest Disclosures

Part 6 - Complaints about the Public Official

Part 7 - Administrative Action Complaints

Definitions

“Administrative Action complaint” (AAC) – as defined in the Local Government Act 2009 S268. An AAC is a complaint about an administrative action of Council made by an affected person. For a complaint to be an AAC, the complainant must be an affected person. An affected person is someone who is apparently directly affected by the administrative action.

Generally an administrative action complaint is about a Council action that is contrary to a policy or procedure endorsed by Council. For example:

- Not charging in accordance with Council’s Fees and Charges
- Not giving a dog owner notice that his or her dog has been impounded when local law says such notice would be given
- Not emptying a rubbish bin that should have been emptied (if this happens once it might be recorded as a request for service. However, if a tenant says that her bin is rarely emptied it would be called an AAC)
- Cutting down trees in a park without public consultation in a situation where relevant policy says that consultation should have occurred.
- Council officer entering property without necessary authority
- Council not enforcing environmental nuisance requirements e.g. with respect to noise

In the absence of policy or local laws, complaints about unfair actions can be considered as AACs (if the actions are not illegal) for example:

- Only being given a few hours to put in a job application or respond to a council notice
- Damaging a garden which a resident lawfully maintains on council owned land.
- Providing greater or better services for some residents than for other residents (because of poor management as opposed to corruption)

“Crime and Corruption Commission (CCC)” - the Commission continued in existence under the Crime and Corruption Act 2001

“CC Act” Crime and Corruption Act 2001

“Complaint” includes information or matter. See definition provided by s48A(4) of the Crime and Corruption Act 2001

“Contact details” should include a direct telephone number, email address and postal address to enable confidential communications

“Corruption” see Schedule 2 (Dictionary) of the Crime and Corruption Act 2001

“Corrupt conduct” see s15 of the Crime and Corruption Act 2001

“Corruption in Focus” <http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus>; see chapter 2, page 2.5

“Complaints Sponsor” the Chief Executive Officer or the Executive Manager Governance and Operations. The Complaints Sponsor will ensure the complaints process is adhered to and is complaint with all relevant policy and legislation.

“Deal with” see Schedule 2 (Dictionary) of the Crime and Corruption Act 2001

“Department” Department of Local Government, Racing and Multicultural Affairs

“Employee Complaint” is a complaint regarding the manner in which a Council employee has behaved while conducting Council business or representing Council. An employee is a person who enters into a contract of employment or service with the KASC on a full-time, part-time, casual or temporary basis, or a volunteer, or a contractor and/or a person prescribed by regulation.

“Internal Review” is a review of a complaint by an authorised Complaints Officer as determined by the Chief Executive Officer

“Frivolous, trivial or vexatious complaint” is a complaint which, at the discretion of the relevant complaints officer, is considered to be minor, without merit, mischievous or without sufficient grounds and therefore not worthy of action.

“General enquiry” is a request for clarification, advice, information or further information about Council services, policies or procedures. Enquiries can usually be resolved in one-off communication.

“Public Interest Disclosure” is a complaint about Council officers made under the Public Interest Disclosure Act 2010 (formally whistle-blowers’ legislation).

“Request for Service” a request for Council to take action in relation to a service or product provided by Council. Examples include:

- A barking dog
- A leaking water pipe
- An overflowing waste bin
- A pot hole
- Road maintenance

A customer Request for Service may not be a complaint and should be dealt with through the customer request process but concerns about inaction in respect of a customer request shall constitute an Administrative Action Complaint.

“Nominated person” see item 7 of this policy

“Public Official / CEO” – Chief Executive Officer

“Unit of public administration (UPA)” – Kowanyama Aboriginal Shire Council (KASC).

Scope

This Policy applies to all KASC employees, senior managers, CEO, volunteers, Councillors, the Deputy Mayor, the Mayor and agents of Council.

This Complaint Management Policy applies to all complaints received by Council, including:

- Conduct or Performance of Councillors
- Corrupt Conduct Complaints
- Competitive Neutrality Complaints
- Privacy Complaints
- Public Interest Disclosures
- Complaints about the Public Official
- Administrative Action Complaints

Background

As detailed in our Code of Conduct, KASC intends to conduct its business with integrity, honesty and fairness and complies with all relevant laws, regulations, codes and corporate standards.

Everyone working for, or appointed by, KASC must follow the highest standards of behaviour when dealing with customers and each other.

Our leaders must encourage a culture where ethical conduct is recognised, valued and followed at all levels.

Furthermore, Council is committed to work in accordance with the Local Government principles set out in section 4(2) of the Local Government Act 2009 (Qld) and the Ethics Principles set out in section 4(2) of the Public Sector Ethics Act 1994 (Qld), namely:

1. transparent and effective processes, and decision-making in the public interest
2. sustainable development and management of assets and infrastructure, and delivery of effective services
3. democratic representation, social inclusion and meaningful community engagement
4. good governance of, and by, local government
5. ethical and legal behaviour of Councilors and local government employees
6. integrity and impartiality
7. promoting the public good
8. commitment to the system of government
9. accountability and transparency

A failure of a local government employee, Councillor, contractor or agent to conduct oneself strictly in accordance with the KASC Code of Conduct, Local Government Principles and Ethics Principles shall be thoroughly investigated by Council and if proven, disciplinary action as available under Council Policy, Procedure and/or Regulation, including but not limited to mandatory reporting to regulatory bodies (e.g. the Queensland Crime and Corruption Commission or the Chief Executive Officer of the Department of Local Government, Racing and multicultural Affairs).

Complaints Process

There are six steps in the management of complaints:

1. Lodging a complaint
2. Record
3. Initial Review
4. Initial Response
5. Investigate
6. Recommendation and Report

Note: If you are not comfortable about reporting a complaint to council, you can provide a report directly to the Crime and Corruption Commission or the Queensland Ombudsman.

Step 1- Lodging a complaint

- Complaints should be provided in writing to the “Complaints Sponsor” who can be either the Chief Executive Officer or the Executive Manager Governance and Operations or through the KASC Website complaint form.
- Council staff may assist a complainant in writing a complaint.
- Verbal complaints may also be provided if they are provided directly to the Chief Executive Officer or Executive Manager Governance and Operations and the person lodging the complaint agrees that the matter should be dealt with as an official complaint.
- Council will accept anonymous complaints, however the anonymity of the complaint may impact the assessment of it if insufficient information is provided.

Step 2 - Record

- The Executive Assistant has the responsibility to update the complaints register and ensure compliance with the Public Records Act 2002.
- The Chief Executive Officer or Executive Manager Governance and Operations will appoint a Complaints Officer to review the complaint. The Complaints Officer may be themselves if the complaint does not involve them in fact or in perception.
- The Executive Manager Governance and Operations and Executive Assistant will have access to the complaints received through the website.

Step 3 – Initial Review

- The Complaints Officer will review the initial complaint and provide initial assessment whether it is a:
 - Frivolous, trivial or vexatious complaints
 - Request for Service
 - Employee Performance Matter
 - Conduct or Performance of Councilors
 - Corrupt Conduct Complaint
 - Competitive Neutrality Complaints
 - Privacy Complaints
 - Public Interest Disclosures
 - Complaints about the Public Official
 - Administrative Action Complaints

Frivolous, trivial or vexatious complaints

If the complaint is deemed as a Frivolous, trivial or vexatious complaint no further action will be taken to investigate.

Request for Service

If the complaint is considered to be a “request for service” it will be forwarded to the relevant Executive Manager for their review.

Employee Performance Matter

If the complaint is considered to be a performance matter of an employee it will be forwarded to the Executive Manager Human Resources and the employees Executive Manager or Chief Executive Officer for further review.

If the complaint is in regard to the performance of the Chief Executive Officer it will be forwarded to the Mayor and the Executive Manager Human Resources.

Conduct or Performance of Councilors

If the complaint is considered to be a complaint about the conduct or Performance of Councilors it will be dealt in accordance with **Part 1** of this policy.

Corrupt Conduct Complaint

If the complaint is considered to be a Corrupt Conduct Complaint it will be dealt in accordance with **Part 2** of this policy.

Competitive Neutrality Complaint

If the complaint is considered to be a Competitive Neutrality Complaint it will be dealt in accordance with **Part 3** of this policy.

Privacy Complaints

If the complaint is considered to be a Privacy Complaint it will be dealt in accordance with **Part 4** of this policy.

Public Interest Disclosure

If the complaint is considered to be a Public Interest Disclosure and it will be dealt in accordance with **Part 5** of this policy.

Administrative Action Complaint

If the complaint is considered to be an Administrative Action complaint it will be dealt in accordance with **Part 6** of this policy.

Complaints about a Public Official

If the complaint is considered to be a complaint about a public official it will be dealt in accordance with **Part 7** of this policy.

Step 4 – Initial Response

Acknowledgement and the results of the initial review of the complaint will be made in writing (letter or email) or by telephone, according to the preference expressed by the complainant within ten (10) working days from receipt of the complaint to both a) the complainant (if not anonymous) and b) the Chief Executive Officer.

Step 5 – Investigation

The Complaints Officer will determine whether council has sufficient resources to thoroughly investigate the complaint.

If it is determined that KASC does not have sufficient resources at that time, or if there may be a perceived or actual conflict of interest for a Complaints Officer to investigate a complaint, the complaint may be investigated by a third party as appointed by the Complaints Officer.

Step 6 – Report and Recommendations

The Complaints Officer (internal or appointed external third party) will provide a recommendation to the Complaints Sponsor to action. Recommendations may include:

- Admission of fault
- Apology
- Change of decision
- Change of policy, practices or procedures
- Refund of waiver
- Withdrawing
- Correction of incorrect records
- Repair
- Further officer training or discipline
- Referral to a third party including, the Crime and Corruption Commission, Queensland Ombudsman or Police.

If the investigation assesses that there has been potential criminal or fraudulent activity (as described in Council's Fraud and Corruption Control Plan) by the Chief Executive Officer **Part 6** of this policy must be followed).

Part 1

Conduct or Performance of Councillors

- a) Steps 1,2 and 3 of this Complaints Policy apply to this category of complaints.
- b) The CEO must assess whether the conduct amounts to inappropriate conduct, misconduct, corrupt conduct or more suited to administrative action or other complaint category against Council. The CEO may seek advice from the Executive Manager Governance and Operations.
- c) If the CEO assesses the complaint as amounting to inappropriate conduct, the CEO must:
 - i. if the complaint is about the conduct of the Mayor or Deputy Mayor, refer the complaint to the Department's Chief Executive;

- ii. If the complaint is about the conduct of another Councillor, refer the complaint to the Mayor.
- d) If the CEO assesses the complaint as amounting to inappropriate conduct of a Councillor and refers the matter to the Mayor, the Mayor may make either or both of the following orders that the Mayor considers appropriate in the circumstances:
 - i. an order reprimanding the Councillor for the inappropriate conduct;
 - ii. an order that any repeat of the inappropriate conduct be referred to the Department's Chief Executive as misconduct.
- e) If inappropriate conduct occurs in a meeting of Council or its committees, the Chair of the meeting may make any one or more of the following orders that the Chair considers appropriate in the circumstances:
 - i. an order that the Councillor's inappropriate conduct be noted in the minutes of the meeting;
 - ii. an order that the Councillor leave the place where the meeting is being held (including any area set aside for the public) and stay out of the place for the rest of the meeting;
 - iii. an order that a Councillor who fails to leave the place where the meeting is being held when ordered to do so, be removed from the place.
- f) If the CEO assesses that the complaint is about misconduct, the CEO must refer the complaint to the Department's Chief Executive.
- g) If the CEO assesses that the complaint is about corrupt conduct under the Crime and Corruption Act 2001 (Qld), the CEO must deal with the complaint as a corrupt conduct complaint.
- h) If the CEO assesses that the complaint is more suited to another complaint category under this or another policy, the complaint shall be dealt with in accordance with that prescribed policy
- i) The CEO must give the entity who made the complaint and the accused Councillor a written notice that states:
 - i. the type of complaint that the CEO has assessed the complaint as;
 - ii. the action, if any that is proposed to be taken in relation to the complaint;
 - iii. if the complaint was about a frivolous matter or was made vexatiously, that it is an offence under the Act for a person to make a complaint that is substantially about a matter that the CEO has assessed as being frivolous or vexatious.
- j) In addition to recording the complaint under clause 8(b) above, the CEO shall ensure that the public may have access to the outcome of each complaint, including any disciplinary action or other action that was taken in relation to the complaint, unless the complaint was rejected at preliminary assessment stage or was assessed as a public interest disclosure. This information shall be recorded on Council's website and the record shall be maintained by the CEO assisted by the Executive Assistant

Part 2

Corrupt Conduct Complaint

Steps 1,2 and 3 of this Complaints Policy apply to this category of complaints, thereafter the Fraud and Corruption Control Plan should be followed.

Part 3

Competitive Neutrality Complaint

- a) Steps 1, 2 and 3 of this Complaint Management Policy apply to this category of complaints.
- b) If, without making a complaint, a person raises concerns about alleged failure of a Council business entity to comply with the competitive neutrality principle in conducting the business activity, Council officers shall seek to clarify and resolve the matter before the person makes a complaint. If a person brings such concerns to the attention of a Council officer and the Council officer is unable to resolve the matter, the Council officer must refer the person's concerns to the Chief Executive Officer.
- c) If a person makes a competitive neutrality complaint to Council, the CEO must give the complaint to the Queensland Productivity Commission as soon as is practicable (as required under section 45 of the Local Government Regulation 2012 (Qld)).

Part 4

Privacy Complaints

- a) At step 2 "Initial review" the nominated Complaints Officer shall be the Information Officer nominated by the Chief Executive Officer.
- c) The Decision Notice shall be given to the complainant within a period of 45 business days of receipt of the Complaint Notification.

Part 5

Public Interest Disclosures

Steps 1, 2 and 3 of this Complaint Management Policy apply to this category of complaints. Thereafter the Public Interest Disclosure policy shall apply.

Part 6

Administrative Action Complaint

This Complaint Management Policy apply to this category of complaints in addition requirements as details in the Local Government Act and Local Government Regulation should apply, including:

- (1) The annual report for a financial year must contain—
 - (a) a statement about the local government’s commitment to dealing fairly with administrative action complaints; and
 - (b) a statement about how the local government has implemented its complaints management process, including an assessment of the local government’s performance in resolving complaints under the process.
 - (2) The annual report must also contain particulars of—
 - (a) the number of the following during the financial year—
 - (i) administrative action complaints made to the local government;
 - (ii) administrative action complaints resolved by the local government under the complaints management process;
 - (iii) administrative action complaints not resolved by the local government under the complaints management process; and
 - (b) the number of administrative action complaints under paragraph (a)(iii) that were made in a previous financial year.
- Furthermore:
- (4) The local government must—
 - (a) record all administrative action complaints; and
 - (b) ensure the public may inspect the complaints management process (including the related policies and procedures) at the local government’s public office and on its website; and
 - (c) ensure internal reports are occasionally provided to senior management about the operation of the complaints management process; and
 - (d) ensure mechanisms are in place to—
 - (i) identify, analyse and respond to complaint trends;and
 - (ii) monitor the effectiveness of the complaints management process (by monitoring the time taken to resolve complaints, for example).
 - (5) To remove any doubt, it is declared that, in deciding if a complaint is an administrative action complaint, it is irrelevant—
 - (a) how quickly the complaint was resolved; or
 - (b) to which area of a local government the complaint was made; or
 - (c) whether the complaint was a written or verbal complaint; or
 - (d) whether or not the complaint was made anonymously.

Part 7

Complaints about the public official

Objective

The Chief Executive Officer is the public official of the KASC.

The objective of this policy is to set out how the KASC will deal with a complaint (also information or matter) that involves or may involve corrupt conduct of its Chief Executive Officer as defined in the Crime and Corruption Act 2001 (CC Act).

Part 7 of this policy is designed to assist the KASC to:

1. Comply with s48A of the Crime and Corruption Act 2001
2. Promote public confidence in the way suspected corrupt conduct of the Chief Executive Officer for the KASC is dealt with (s34(c) CC Act)
3. Promote accountability, integrity and transparency in the way the KASC deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Chief Executive Officer

Part 7 applies if there are grounds to suspect that a complaint may involve corrupt conduct of the:

- Chief Executive Officer of KASC
- to all persons who hold an appointment in, or are employees of, the Council.

For the purpose of this policy a complaint includes information or matter.

Nominated Person

Having regard to s48A(2) and (3) of the CC Act, this policy nominates:

- Executive Manager Governance and Operations and the Executive Manager Finance as the nominated person to notify the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.

Where there is more than one nominated person:

- the nominated persons will — with or without consulting the CCC or Mayor— decide who will be the nominated person for a particular complaint; and
- the nominated person for that particular complaint will inform the CCC and Mayor that they are the nominated person for the particular complaint.

Complaints about the Chief Executive Officer

Where there is a nominated person, if a complaint may involve an allegation of corrupt conduct of the Chief Executive Officer of the KASC, the complaint may be reported to:

- the nominated person, or
- a person to whom there is an obligation to report under an Act (this does not include an obligation imposed by ss37, 38 and 39(1) of the CC Act).

If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the nominated person.

If the nominated person reasonably suspects the complaint may involve corrupt conduct of the Chief Executive Officer they are to:

- (a) notify the CCC of the complaint, and
- (b) deal with the complaint, subject to the CCC's monitoring role, when —
 - directions issued under s40 apply to the complaint, if any, or
 - pursuant to s46, the CCC refers the complaint to the [nominated person] to deal with.

If the Chief Executive Officer reasonably suspects that the complaint may involve corrupt conduct on their part, and there is a nominated person, the Chief Executive Officer must:

- (i) report the complaint to the nominated person as soon as practicable and may also notify the CCC, and
- (ii) take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Mayor

Where there is a nominated person, and if directions issued under s40 apply to the complaint:

- (i) the nominated person is to deal with the complaint, and
- (ii) the Chief Executive Officer is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Mayor.

Resourcing the Nominated Person

If pursuant to ss40 or 46, the Nominated Person has responsibility to deal with the complaint :

- (i) the KASC will ensure that sufficient resources are available to the Nominated Person to enable them to deal with the complaint appropriately, and
- (ii) the Nominated Person is to ensure that consultations, if any, for the purpose of securing resources sufficient to deal with the complaint appropriately are confidential and are not disclosed, other than to the CCC, without:
 - authorisation under a law of the Commonwealth or the State, or

- the consent of the [public official/CEO or nominated person] responsible for dealing with the complaint
- (iii) the Nominated Person must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
- purposes of the CC Act
 - the importance of promoting public confidence in the way suspected corrupt conduct in the KASC is dealt with , and
 - the KASC's statutory, policy and procedural framework.

If the Nominated Person has responsibility to deal with the complaint, they:

- are delegated the same authority, functions and powers as the Chief Executive Officer to direct and control staff of the KASC as if the nominated person is the Chief Executive Officer of the KASC for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the Chief Executive Officer to enter into contracts on behalf of the KASC for the purpose of dealing with the complaint
- do not have any authority, function or power that cannot — under the law of the Commonwealth or the State — be delegated by either the [title of person or entity with to whom the public official is accountable (e.g. Minister for Department; the elected Council/Mayor for local government CEO)] or the Chief Executive Officer, to the nominated person

Liaising with the CCC

The Chief Executive Officer is to keep the CCC and the nominated person(s) informed of:

- the contact details for the Chief Executive Officer and the nominated person(s)
- any proposed changes to this policy.

Consultation with the CCC

The Chief Executive Officer will consult with the CCC when preparing any policy about how the KASC will deal with a complaint that involves or may involve corrupt conduct of the Chief Executive Officer


Review

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

Approval

This policy was duly authorised by Council as the Kowanyama Aboriginal Shire Council's Complaints Management Policy shall hereby supersede any previous policies of the same intent.

Chief Executive Officer, Fabian Williams



Date: 16 May 2018