

Complaints Management Policy

Policy Number	KASC-STAT-017
Responsible Manager	Chief Executive Officer
Legislation	Local Government Act 2009 Local Government Regulation 2012 Crime and Corruption Act 2001 Ombudsman Act 2001 Public Interest Disclosure Act 2010 Public Records Act 2002 Public Sector Ethics Act 1994
Associated Documents	Public Interest Disclosure Policy Code of Conduct Fraud and Corruption Control Plan Complaints About a Public Official
Approval Date	19 January 2021

1. Purpose of this Policy

- 1.1 Kowanyama Aboriginal Shire Council (KASC) is committed to ensuring that the standards detailed in internal policies and stated in government guidelines and legislation are upheld.
- 1.2 If a breach is identified, KASC encourages that a complaint be made so that KASC has an opportunity to remedy the breach and improve service provision, transparency, and accountability. KASC must deal with complaints fairly, promptly, and professionally.
- 1.3 This document sets out KASC's policy and procedure for managing 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 - Administrative Action Complaints

2. Definitions and Terms

- 2.1 In this policy:

Council	Means Kowanyama Aboriginal Shire Council.
Administrative Action Complaint (AAC)	<p>As defined in the Local Government Act 2009 section S268. An AAC is a complaint about an administrative action of KASC made by an affected person. For a complaint to be an AAC, the complainant must be an affected person. An affected person is apparently directly affected by the administrative action.</p> <p>Generally, an AAC is about a KASC action that is contrary to a policy or procedure endorsed by KASC. For example:</p>

	<p>a) Not charging in accordance with KASC's Fees and Charges;</p> <p>b) Not giving a dog owner notice that his or her dog has been impounded when local law says such notice would be given;</p> <p>c) 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);</p> <p>d) Cutting down trees in a park without public consultation in a situation where relevant policy says that consultation should have occurred;</p> <p>e) KASC officer entering property without necessary authority; or</p> <p>f) KASC not enforcing environmental nuisance requirements e.g., with respect to noise.</p> <p>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:</p> <p>a) Only being given a few hours to put in a job application or respond to a KASC notice;</p> <p>b) Damaging a garden which a resident lawfully maintains on KASC owned land; or</p> <p>c) Providing greater or better services for some residents than for other residents (because of poor management as opposed to corruption).</p>
Crime and Corruption Commission (CCC)	Is the Commission continued in existence under the <u>Crime and Corruption Act 2001</u> .
Complaint	Is information or matter leading to allegations against a person.
Contact Details	Should include a direct telephone number, email address and postal address to enable confidential communications.
Corruption	See Schdeule 2 (Dictionary) of the <u>Crime and Corruption Act 2001</u> .
Corrupt Conduct	See Section 15 of the <u>Crime and Corruption Act 2001</u> .
Complaints Officer	Is a person nominated by the Complaints Sponsor to investigate the complaint.
Complaints Officer	The Chief Executive Officer or the Complaints Sponsor will ensure the complaints process is adhered to and is compliant with all relevant policy and legislation.
Deal With	See Schdeule 2 (Dictionary) of the <u>Crime and Corruption Act 2001</u> .
Department	Is the department of Local Government, Racing and Multicultural Affairs, or its successor.
Employee Complaint	Is a complaint regarding the way a KASC employee has behaved while conducting KASC business or representing KASC. An employee is a person who enters a contract of employment or service with 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 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 KASC services, policies, or procedures. Enquiries can usually be resolved in one-off communication.
Office of the Independent Assessor	The OIA assesses complaints to determine whether they raise a reasonable suspicion of inappropriate conduct, misconduct, or corrupt conduct. The OIA can receive complaints referred to it by the CCC or receive complaints directly from a member of the public.
Public Interest Disclosure	Is a complaint about KASC officer/s made under the <u>Public Interest Disclosure Act 2010</u> (formally Whistle Blowers' Legislation).
Request for Service	A request for KASC to act in relation to a service or product provided by KASC. A customer Request for Service may not be a complaint and should be dealt with through the customer request process, however concerns about inaction in respect of a customer request shall constitute an Administrative Action Complaint. Examples of a Request for Service include: a) A barking dog; b) A leaking water pipe; c) Slow service at the post office; d) An overflowing waste bin; e) A pothole; or f) Road maintenance.
Unit of Public Administration (UPA)	Is Kowanyama Aboriginal Shire Council

3. Acronyms and Abbreviations

3.1 In this policy:

KASC	Kowanyama Aboriginal Shire Council
AAC	Administrative Action Complaint
CCC	Crime and Corruption Commission
CC Act	<u>Crime and Corruption Act 2001</u>
CEO	Chief Executive Officer

4. Scope of this Policy

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

4.2 This Complaint Management Policy applies to all complaints received by KASC, 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

5. Background

- 5.1 As detailed in our Code of Conduct, KASC intends to conduct its business with integrity, honesty and fairness and comply with all relevant laws, regulations, codes, and corporate standards.
- 5.2 Everyone working for, or appointed by, KASC must follow the highest standards of behaviour when dealing with customers and each other.
- 5.3 Our leaders must encourage a culture where ethical conduct is recognised, valued, and followed at all levels.
- 5.4 KASC is committed to working in accordance with the Local Government principles set out in section 4(2) of the Local Government Act 2009 and the Ethics Principles set out in section 4(2) of the Public Sector Ethics Act 1994
- 5.5 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 KASC and if proven, disciplinary action as available under KASC Policy, Procedure and/or Regulation, including but not limited to mandatory reporting to regulatory bodies (e.g. the Queensland Crime and Corruption Commission, the Office of the Independent Assessor or the Chief Executive Officer of the Department of Local Government, Racing and multicultural Affairs).

6. Complaints Process

There are six steps in the management of complaints:



Figure 1: KASC Complaints Process Steps

If you are not comfortable about reporting a complaint to KASC, you can provide a report directly to the Crime and Corruption Commission or the Office of the Independent Assessor.

6.1 Step 1 – Lodging a Complaint

Complaints should be provided in writing to the "Complaints Sponsor." Complaints can also be lodged through the KASC Website complaint form via <https://www.kowanyama.qld.gov.au/make-complaint>.

6.2 Step 2 – Record the Complaint

The Executive Assistant has the responsibility to update the complaints register and ensure compliance with the Public Records Act 2002.

The Complaints Sponsor will appoint a Complaints Officer to review the complaint. The Complaints Officer may review the complaint if the complaint does not involve them in fact or in perception.

The Complaints Sponsor or delegate will have access to the complaints received through the KASC website.

6.3 Step 3 – Initial Review

The Complaints Officer will review the initial complaint and provide initial assessment whether it is a:

6.3.1 Frivolous, Trivial or Vexatious Complaints

If the complaint is deemed a Frivolous, trivial, or vexatious complaint, no further action will be taken to investigate. The complainant shall be advised that the complaint has been dismissed.

6.3.2 Request for Service

If the complaint is a request for service, it will be forwarded to the relevant Executive Manager for their review and action.

6.3.3 Employee Performance Manner

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

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

6.3.4 Conduct or Performance of Councilors

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

6.3.5 Corrupt Conduct Complaint

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

The CCC has provided guidelines and resources to assist KASC with assessing and recording Corrupt Conduct complaints. Those resources can be accessed from the CCC website.

The Office of the Independent Assessor (OIA) has entered an arrangement with the CCC to commence investigations into some allegations of corrupt conduct. The OIA reports these matters to the CCC monthly and can take over an investigation if appropriate.

When the OIA deals with corrupt conduct, which is a statutory offence under the LGA, it has the choice to deal with the matter either as misconduct or as a criminal prosecution.

6.3.6 Competitive Neutrality Complaint

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

6.3.7 Privacy Complaint

If the complaint is a Privacy complaint, it will be dealt with in accordance with Part 4 of this policy.

6.3.8 Public Interest Disclosure

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

6.3.9 Administration Action Complaint

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

6.4 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.

6.5 Step 5 – Investigation

The Complaints Officer will determine whether KASC 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.

6.6 Step 1 – Lodging a Complaint

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

- a) Admission of fault
- b) Apology
- c) Change of decision
- d) Change of policy, practices, or procedures
- e) Refund of waiver
- f) Withdrawal
- g) Correction of incorrect records
- h) Repair
- i) Further officer training or discipline
- j) 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 KASC's Fraud and Corruption Control Plan) by the CEO, **Part 6** of this policy must be followed.

7. Part 1: Conduct or Performance of Councillors

- 7.1 Steps 1,2 and 3 of this Complaints Policy apply to this category of complaints.
- 7.2 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 KASC.
- 7.3 If the CEO assesses the complaint as amounting to inappropriate conduct, the CEO must assess:
 - a) If the complaint is about the conduct of the Mayor or Deputy Mayor, refer the complaint to the Chief Executive of the Department of Local Government, Racing and Multicultural Affairs and/or
 - b) If the complaint is about the conduct of another Councillor, refer the complaint to the mayor.
- 7.4 If the CEO assesses the complaint as amounting to inappropriate conduct of a Councillor (or the OIA refers a matter back to Council for investigation) the CEO shall refer the matter to the mayor for investigation. The mayor may then make either or both of the following orders that the mayor considers appropriate in the circumstances:
 - a) An order dismissing the complaint as without merit;
 - b) An order reprimanding the Councillor for the inappropriate conduct; and/or
 - c) An order that any repeat of the inappropriate conduct be referred to the OIA as misconduct.
- 7.5 If inappropriate conduct occurs in a meeting of KASC 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:
 - a) An order that the Councillor's inappropriate conduct be noted in the minutes of the meeting;
 - b) 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;
 - c) 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.
- 7.6 If the CEO assesses that the complaint is about misconduct, the CEO must refer the complaint to the OIA.
- 7.7 If the CEO assesses that the complaint is about corrupt conduct under the Crime and Corruption Act 2001 (Qld), the CEO must refer the complaint to the OIA.
- 7.8 If the CEO assesses that the complaint is more suited to another complaint category under this policy or another policy, the complaint shall be dealt with in accordance with that prescribed policy.
- 7.9 The CEO must give the entity who made the complaint and the accused Councillor a written notice that states:
 - a) The type of complaint that the CEO has assessed the complaint as;
 - b) The action, if any that is proposed to be taken in relation to the complaint; and
 - c) 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.
- 7.10 In addition to recording the complaint (Step 2), the CEO shall ensure that the public has 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 KASC's website, and

the record shall be maintained by the CEO assisted by the Executive Assistant.

8. Part 2: Corrupt Conduct Complaint

8.1 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.

9. Part 3: Competitive Neutrality Complaint

9.1 Steps 1, 2 and 3 of this Complaint Management Policy apply to this category of complaints.

9.2 If, without making a complaint, a person raises concerns about alleged failure of a KASC business entity to comply with the competitive neutrality principle in conducting the business activity, KASC 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 KASC officer and the KASC officer is unable to resolve the matter, the KASC officer must refer the person's concerns to the Chief Executive Officer.

9.3 If a person makes a competitive neutrality complaint to KASC, 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).

10. Part 4: Privacy Complaints

10.1 Notice of the decision shall be given to the complainant within 45 business days of receipt of the complaint.

11. Part 5: Public Interest Disclosures

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

12. Part 6: Administrative Action Complaint

12.1 This Complaints Management Policy applies to this category of complaints in addition to the requirements as detailed in the Local Government Act 2009 and the Local Government Regulation 2012 including:

12.1.1 The annual report for a financial year must contain:

- i. A statement about the local government's commitment to dealing fairly with administrative action complaints; and
- ii. 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.

12.1.2 The annual report must also contain particulars of 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

- iv. The number of administrative action complaints under paragraph (a)(iii) that were made in a previous financial year.

12.2 The local government must:

- a) record all administrative action complaints;
- 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;
- 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;
 - ii. monitor the effectiveness of the complaints management process (e.g., by monitoring the time taken to resolve complaints).

12.3 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;
- b) to which area of a local government the complaint was made;
- c) whether the complaint was a written or verbal complaint; or
- d) whether or not the complaint was made anonymously.

13. Policy Review

- 13.1 The policy is to be reviewed in accordance with the Policy Framework Policy – KASC-ADMIN-001.
- 13.2 Kowanyama Aboriginal Shire Council reserves the right to vary, replace, or terminate this policy from time to time.

14. Approval

- 14.1 This policy was duly authorised by Council on 19 January 2021 as the Kowanyama Aboriginal Shire Council's Complaints Management Policy and shall hereby supersede any previous policies of the same intent.