

Complaints Against Elected Members Policy

Reference Number: P19
Organisational Unit: All
Responsible Position: Governance Manager
Relevant Delegations: Nil
Date Adopted: 25 January 2017
Review Date: Every three years

Objectives

The purpose of this policy is to:

1. establish a fair and impartial framework that will support the resolution of complaints against elected members, local authority members and council committees; and
2. reduce the need for adjudication of complaints by external bodies.

Legislation and Reference

Local Government Act part 7.4
Code of Conduct (P01)

Scope

This policy provides guidance for submitting, receiving, handling and recording complaints relating to breaches of the council's code of conduct by elected members, local authority members, and council committee members.

Definitions

CEO - The Chief Executive Officer of a municipal or regional council who is responsible for the management and administration of Council business and for the management of council staff. Also includes the Acting CEO when applicable.

Complaint - Any allegation of a breach of the council's code of conduct by members of local authorities, council committees and elected members.

Complaint Coordinator (CC) - A person who manages or controls the investigation of a formal or an informal complaint.

Council Committee Member - A person appointed by the regional council as a member of a council committee.

Elected Member - A person elected to a council as a councillor.

Formal Complaint - Means a type of complaint that cannot readily be resolved through informal processes. A formal complaint must be in writing. Formal complaints are typically of a serious nature and will be referred to a Disciplinary Committee.

Informal Complaint (verbal) - A minor complaint that can readily be resolved by a Manager or the CEO through informal processes or one that the complainant does not wish to be taken further if it is resolved quickly and satisfactorily.

Investigating Officer (IO) - A person assigned by the Complaint Coordinator to assist the Disciplinary Committee to investigate and report on a complaint.

LGANT - LGANT means the Local Government Association of the Northern Territory. Its membership is made up of elected members from Municipal and Regional Councils in the Northern Territory.

Local Authority Member - A person elected by the regional council as a member of the Local Authority.

Disciplinary Committee – An informal committee established to investigate and report on a complaint made against an Elected Member or Local Authority Member.

The Agency - Department of Local Government and Community Services

Policy

Complaints

Complaints against elected members, local authority members and council committee members

Pursuant to section 79 of the Act, anyone who wishes to make a complaint against an elected member, local authority or council committee member, must do so within six months of the alleged misconduct.

Council staff members wishing to complain against an elected, local authority or council committee member must do so through the CEO.

Any member of the public may lodge complaints through the CEO, the President or Deputy President.

Complaints about serious breaches of the Code of Conduct may be taken directly to the Agency's Disciplinary Committee in accordance with section 79 of the Act. However, anyone concerned that an elected member, local authority or committee member has breached the Council's Code of Conduct is encouraged to lodge the complaint in the first instance, with the appropriate council representative before choosing to go directly to the Local Government Disciplinary Committee.

Complaints received by elected members, local authority members and council committee members

Elected members (other than the President or Deputy President), local authority members and council committee members who receive verbal or written complaints are encouraged to refer the complainant to this policy rather than attempt to resolve the complaint.

Complaints against the President

Any complaint against the President should be lodged with the Deputy President or CEO.



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Complaints against the CEO

Any complaint against the CEO should be lodged with the President or Deputy President who, if necessary, can request advice and/or assistance from LGANT or the Agency.

Complaints against staff

A complaint against Council staff must be lodged with the CEO of the Council. Please refer to *External Complaints* policy.

Principals

Compliance

The handling of complaints covered by this policy must comply with the relevant legislation such as the Local Government Act (the Act), and the Code of Conduct or Elected Members' Code of Conduct.

Impartiality

Complaints will be dealt with on their merit – regardless of the person making the complaint or the person against whom the complaint is made. An impartial Investigating Officer (IO) will be assigned to each formal complaint.

Accountability

The actions taken to investigate and resolve formal complaints must be recorded and be available for scrutiny should the complaint escalate to adjudication by an external body such as the Local Government Disciplinary Committee or the Police.

Responsiveness

Complaints will be dealt with within 3 working days and if there is a possibility of a delay, an explanation will be communicated to the person making the complaint and, if relevant, to the person against whom the complaint was made.

Accessibility

The Council will strive to make the complaints process accessible to all elected members, residents and staff, regardless of location, language or education.

Confidentiality

The Council will aim for a level of confidentiality consistent with maintaining the privacy and dignity of both complainant and the person complained against whilst still allowing the investigation to take place. That is, details of the people involved, the complaint and the investigation will only be revealed on a 'need to know' basis unless the people involved consent to wider distribution.

Lodging / receiving different types of complaints

The Council will accept complaints made in person, by phone, fax, letter, email, video, text message, or on the approved Complaint Form at Appendix 1.

Anonymous complaints are not encouraged because it is difficult to properly investigate the information given anonymously and it is not possible to give feedback to the complainant once the investigation is completed. Anonymous complaints will only be examined if the issues raised are serious and if sufficient information is given to warrant further investigation.

Informal complaint may be lodged verbally or in writing. Staff must not require people to lodge informal complaint in writing before responding to them. Informal complaint lodged verbally with the Council will be documented by the person receiving the complaint or an authorised person in accordance with section 6 of this document.

Formal complaints must be lodged in writing. The Complaint Form at Appendix 1 may be used to make a formal complaint, but it is not compulsory to use it. A person making a formal complaint is encouraged to provide enough information to enable the investigation to commence. The complaint must be recorded in accordance with section 6 of this document.

Assistance with making a complaint

If a person wishes to make a formal complaint but is unable to write it down, the complaint coordinator or council staff members must provide assistance. The complaint must be recorded in writing and address the information asked for on the Complaint Form at Appendix 1. Once complete, the complaint must be read back to the complainant and any changes he or she requests must be made. The complainant should sign the complaint and their signature (or mark) must be witnessed.

Complaints addressed to the designated complaint coordinator (CEO, Deputy – depending on the circumstance) may be lodged at any council office.

Complaints that may not be investigated

A complaint under this policy may not be investigated if:

1. the subject matter does not relate to the breach of the Council's Code of Conduct by a Councillor, Local Authority Member, or a Council Committee member while they were working for or representing the Council.
2. the complaint has already been referred for investigation by another body such as the Police or the Local Government Disciplinary Committee.

Investigating formal complaints against elected members, local authority or committee members

In the case of complaints against an elected members (other than the President or Deputy President), local authority or committee members, the CEO will appoint a Disciplinary Committee. The Disciplinary Committee will comprise of the President, Deputy President and the Investigating Officer.

In the case of complaints against the President the Committee will include an Elected Member determined by the Deputy President. In the case of complaints against the Deputy President the Committee will include an Elected Member determined by the President.

The Investigating Officer (IO) or Member appointed by the CEO must be:

1. reasonably knowledgeable and experienced in the area involved; and
2. with out any conflict of interest or bias.

Investigating formal complaints against Staff

Please refer to Council's *External Complaints* policy.

Delegation

The CEO may, in consultation with the President delegate the processes of a investigating a complaint against an Elected Member or Local Authority Member to the Complaint Coordinator and an Investigating Officer.

Procedural fairness

In investigating a complaint the Disciplinary Committee and Investigating Officer will ensure that the following rules of procedural fairness are observed:

1. The person being complained about must be given adequate details of the complaint in order to discuss it fully and defend themselves against the complaint if necessary.
2. The person being complained about will be given an opportunity to show the Investigating Officer any evidence or information that they think relevant to the inquiry.
3. The person being complained about will be given the opportunity to speak to the Disciplinary Committee in person if they wish.
4. Both the person being complained about and the complainant may have a support person of their choice present when being interviewed.
5. Both the person being complained about and the complainant may also have an interpreter or translator present if they wish.
6. The Disciplinary Committee will listen to everyone involved in the issue and read all the interview reports or other evidence before coming to a conclusion or making recommendations.
7. The Disciplinary Committee and the Investigating Officer will act fairly and without prejudice or bias.

Time frame for investigating a Complaint

The Disciplinary Committee's written report must be completed and returned to the CEO within ten (10) working days.

The CEO / President will reply to the complainant within three (3) working days of receiving the Disciplinary Committee's report. If there is going to be a delay in the investigation, the reasons must be communicated to the complainant.

The Investigating Officer's involvement is over once the report is delivered to the CEO.

Recording complaints

Informal complaints that are received are noted on the Council's Register created for this purpose. All formal complaints must be recorded. All documents relating to formal complaints will be stored in the council's record management system.

Direct access to the complaint files will be under the delegated authority of the CEO. Investigating Officers must keep their ongoing investigation data and draft report confidential until the investigation is complete. All paper and electronic documents relating to the complaint must then be sent to the CEO. Once receipt is acknowledged, all other copies must be destroyed or deleted.

The CEO will note when the complaint was received, when it was assigned to an IO, when the investigation report was delivered and when the reply was sent to the complainant. This data will be used to monitor efficiency in dealing with complaints.

Reporting on complaints

Complaints are a useful measure of perceptions and the impact the Council is having on the residents of the Community. The way in which complaints are handled reflects the responsiveness of the Council and its ability to impartially reflect on issues, resolve difficulties, and improve procedures. A summary of complaints by number, type and whether or not they have been resolved should be presented to the council on a quarterly basis and published in the Annual Report.

History

Date	Comment
6 May, 2016	Adopted by Council – replaces Good Governance Policy P19
25 January 2017	Revised policy adopted by Council (CRN: OC011/2017)

Related Documents

(1) Complaint Form