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# COMPETITIVE NEUTRALITY COMPLAINT MANAGEMENT POLICY

## ***INTENT***

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The Competitive Neutrality Complaint Management Policy has been developed to meet the requirements as set out in Section 48 of the *Local Government Act 2009* to adopt a process for resolving competitive neutrality complaints. Chapter 3, Part 2, Division 7, Subdivision 2 of the *Local Government Regulation 2012* defines the complaint process.

## ***POLICY STATEMENT***

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Cook Shire Council recognises that an effective complaints management system is integral to delivering good customer service and therefore values all complaints. While Council encourages a proactive approach to complaints management, the objective of the competitive neutrality complaints process is to ensure that Council is adhering to the Competitive Neutrality Principles.

The Complaints Management System governed by this policy aims to:

- Be fair and objective. All complaints are considered on their merits and the principles of justice are observed;
- Support continuous improvement. Where applicable, the outcomes from a complaints management process are applied to improve business operations, policies and procedures;
- Be open and accountable. The decisions and 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 from the community in a form that encourages participation.

Cook Shire Council will endeavour to ensure a commitment to a complaints management system that ensures the transparent, effective and timely resolution of complaints, and that contributes to continuous improvement of Council's services.

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Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
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Review Date:	January 2022		
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## SCOPE

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This policy applies to Competitive neutrality Complaints regarding business activities undertaken by Council that are in direct competition, or have the potential to be in competition, with the private sector.

The below complaints will be managed separately from this policy. These include:

- Corruption complaints that are required to be dealt with under the *Crime and Corruption Act 2001*;
- Administrative Action Complaints;
- Public Interest Disclosures (PIDs) made under the *Public Interest Disclosure Act 2010*;
- Internal complaints relating to staff conduct (ie Code of Conduct matters). These will be referred to the relevant Council policies;
- Social media comments;
- Customer requests.

## DEFINITIONS

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The **Code of Competitive Conduct** is the code described in section 47 of the *Local Government Act 2009* and Division 7, Part 2, Chapter 3 of the *Local Government Regulation 2012*.

A **competitive neutrality complaint** is a complaint that:

- relates to the failure of Council to conduct a business activity in accordance with the competitive neutrality principle; and
- is made by an affected person.

An **affected person** is:

- a. a person who
  - i. competes with the local government in relation to the business activity; and
  - ii. claims to be adversely affected by a competitive advantage that the person alleges is enjoyed by the local government; **or**
- b. a person who
  - i. wants to compete with the local government in relation to the business activity; and
  - ii. claims to be hindered from doing so by a competitive advantage that the person alleges is enjoyed by the local government.

The **Competitive Neutrality Principle** is used when Council applies the Code of Competitive Conduct to its business activities. Council must apply the Competitive Neutrality Principle to the business activity by:

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Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
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- removing any competitive advantage or competitive disadvantage, wherever possible and appropriate; and
- promoting efficient use of resources to ensure markets are not unnecessarily distorted.

**QPC** means the Queensland Productivity Commission established under the *Queensland Productivity Commission Act 2015*, section 6.

**Significant business activity** is a business activity of Council that:

- is conducted in competition, or potential competition, with the private sector; and
- meets the threshold prescribed under a regulation.

However, a significant business activity does not include a business activity that is:

- a building certifying an activity; or
- a roads activity; or
- related to the provision of library services.

## **PROCESS**

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### **1. HOW TO MAKE A COMPLAINT**

A complaint may be made:

- In writing by letter to:  
Chief Executive Officer  
Cook Shire Council  
PO Box 3  
COOKTOWN QLD 4895
- By email to: [mail@cook.qld.gov.au](mailto:mail@cook.qld.gov.au)

All complaints will be lodged in Council’s Complaints Management System at the time of receipt and for complaints received in writing or via email, an acknowledgement will be sent within five (5) working days of receiving the complaint.

Council will deal with competitive neutrality complaints following the process set out in Division 7, Part 2, Chapter 3 of the *Local Government Regulation 2012*.

Council will assist and encourage people to make competitive neutrality complaints by providing them with information about how to contact the Queensland Productivity

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Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
Last Modified:	January 2019 (Resolution 2019/6)		
Review Date:	January 2022		
Current Version:	1.0		

Commission (QPC) and about the steps they must take to lodge a complaint with the QPC, including that they must provide the QPC with:

- a. details of the Council’s business entity’s alleged failure to comply with the competitive neutrality principle in conducting the business activity the subject of the competitive neutrality complaint; and
- b. information that show:
  - i. that the person is, or could be, in competition with the Council’s business entity; and
  - ii. how the person is, or may be, adversely affected by the Council’s business entity’s alleged failure; and
  - iii. that the person has made a genuine attempt to resolve the complaint directly with Council.

In addition to advising a person about how to make a competitive neutrality complaint to the QPC, the Council will itself refer to the QPC as soon as practicable any details of the competitive neutrality complaint that the person has provided to the Council.

## **2. EARLY RESOLUTION PROCESS**

The preliminary procedure for affected persons to raise concerns about alleged failures of any business activity to comply with the relevant competitive neutrality principles in conducting the activity. Council will follow the following early resolution process:

- a. Acknowledgement of the receipt of the concerns in writing and advising the complainant that the concerns are being investigated;
- b. In undertaking the investigation, the review officer shall seek to establish the facts relating to the expressed concerns, including meeting with affected parties and data collection;
  - i. The review officer shall prepare a proposed response to the concerns and, within a reasonable period of time, obtain the complainant’s views on the proposed response;
  - ii. The review officer shall submit a report to the Chief Executive Officer on the concerns, together with a proposed response and the views of the complainant on the proposed response;
  - iii. The Chief Executive Officer shall make a response to the affected person, or direct the review officer to make a response.

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Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
Last Modified:	January 2019 (Resolution 2019/6)		
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Current Version:	1.0		

### 3. QPC AND COUNCIL

The Council will assist the QPC to investigate and resolve each competitive neutrality complaint.

If the QPC provides a report to the Council about an investigation into a competitive neutrality complaint, the Council will make a copy of that report available as soon as practicable for inspection at the Council's public office and customer services centres.

The Council will consider any report provided by the QPC with one (1) month of receiving the report. The Council will decide by resolution whether to implement the recommendations contained in that report, stating the reasons for its decision. The Council will within seven (7) working days of making the resolution give notice about it to:

- The person who made the competitive neutrality complaint; and
- The QPC.

### 4. REGISTER OF COMPETITIVE NEUTRALITY COMPLAINTS

The Council will maintain a register of business activities to which the competitive neutrality principle applies that state:

- the business activities to which the Council has applied the competitive neutrality principle, and the date from which the competitive neutrality principle applied to each business activity;
- the business activities to which the Code of Competitive Conduct applies, and the date from which the code applied to each business activity; and
- a list of:
  - i. current investigation notices for competitive neutrality complaints; and
  - ii. the business activities to which the complaints relate; and
  - iii. the Council's responses to the QPC's recommendations on the complaints.

### 5. REVIEW

It is the responsibility of the Governance and Risk Manager to monitor the adequacy of this process and recommend appropriate changes. This process will be formally reviewed every four (4) years or as required by Council.

Document Number:	D19/15077	<b>CONTROLLED DOCUMENT</b> This electronic document is guaranteed as the most current. <b>DO NOT COPY.</b> Unauthorised hard copies of this document are prohibited.	Page 5 of 6
Authorised By:	Director Organisational Business Services		
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Current Version:	1.0		

## **REFERENCES, LEGISLATION AND GUIDELINES**

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The relevant legislation and documentation relevant to adoption and operation of the Competitive Neutrality Complaint Management Policy includes, but is not limited to:

- *Local Government Act 2009*
- *Local Government Regulations 2012*

## **IMPLEMENTATION/COMMUNICATION**

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Through team meetings and on-going training.

## **APPROVED BY**

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Council resolution

## **REVIEW**

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<b>SPONSOR:</b>	Director of Organisational Business Services
<b>OFFICER RESPONSIBLE FOR REVIEW:</b>	Manager Governance and Risk
<b>ADOPTION DATE:</b>	January 2019 (Council Resolution 2019/6)
<b>REVIEW DATE:</b>	January 2022

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***THIS POLICY IS TO REMAIN IN FORCE UNTIL OTHERWISE DETERMINED BY COUNCIL***

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## **AMENDMENT HISTORY**

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<b>VERSION</b>	<b>AMENDMENT DETAILS</b>	<b>AMENDMENT DATE</b>	<b>APPROVAL</b>
V1.0	New Policy	January 2016	Council Resolution 2019/6

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Authorised By:	Director Organisational Business Services		
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