
COMPETITIVE NEUTRALITY COMPLAINT MANAGEMENT POLICY

INTENT

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

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.

Document Number:	D22/7353	CONTROLLED DOCUMENT This electronic document is guaranteed as the most current. DO NOT COPY. Unauthorised hard copies of this document are prohibited.	Page 1 of 6
Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
Last Modified:	24 May 2022		
Review Date:	May 2026		
Current Version:	2.0		

SCOPE

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 (i.e. Code of Conduct matters). These will be referred to the relevant Council policies;
- Social media comments;
- Customer requests.

DEFINITIONS

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:

Document Number:	D22/7353	CONTROLLED DOCUMENT This electronic document is guaranteed as the most current. DO NOT COPY. Unauthorised hard copies of this document are prohibited.	Page 2 of 6
Authorised By:	Director Organisational Business Services		
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Current Version:	2.0		

- removing any competitive advantage or competitive disadvantage, wherever possible and appropriate; and
- promoting efficient use of resources to ensure markets are not unnecessarily distorted.

QCA means the Queensland Competition Authority established under the *Queensland Competition Authority Act 1997*.

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.

PROCESS

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**

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 Competition Authority (QCA)

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Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
Last Modified:	24 May 2022		
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Current Version:	2.0		

and about the steps they must take to lodge a complaint with the QCA, including that they must provide the QCA 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 shows:
 - 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 QCA, the Council will itself refer to the QCA 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.

Document Number:	D22/7353	CONTROLLED DOCUMENT This electronic document is guaranteed as the most current. DO NOT COPY. Unauthorised hard copies of this document are prohibited.	Page 4 of 6
Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
Last Modified:	24 May 2022		
Review Date:	May 2026		
Current Version:	2.0		

3. QCA AND COUNCIL

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

If the QCA 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 QCA within 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 QCA.

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 QCA's recommendations on the complaints.

5. REVIEW

It is the responsibility of the Governance Coordinator 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:	D22/7353	CONTROLLED DOCUMENT This electronic document is guaranteed as the most current. DO NOT COPY. Unauthorised hard copies of this document are prohibited.	Page 5 of 6
Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
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Current Version:	2.0		

REFERENCES, LEGISLATION AND GUIDELINES

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

Through team meetings and on-going training.

APPROVED BY

Council resolution 2022/

REVIEW

SPONSOR:	Director of Organisational Business Services
OFFICER RESPONSIBLE FOR REVIEW:	Governance Coordinator
ADOPTION DATE:	May 2022 (Council Resolution)
REVIEW DATE:	May 2026

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

AMENDMENT HISTORY

VERSION	AMENDMENT DETAILS	AMENDMENT DATE	APPROVAL
V1.0	New Policy	January 2016	Council Resolution 2019/6
V2.0	Revision	May 2022	Council Resolution 2022/

Document Number:	D22/7353	<p style="text-align: center;">CONTROLLED DOCUMENT</p> <p>This electronic document is guaranteed as the most current. DO NOT COPY. Unauthorised hard copies of this document are prohibited.</p>	Page 6 of 6
Authorised By:	Director Organisational Business Services		
Original Issue Date:	January 2016		
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