

Complaints Management Procedure

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Responsible Officer:	CEO

Purpose

This procedure outlines the processes which will be applied in the management of complaints lodged with Murweh Shire Council.

Commencement of Policy

This Policy will commence on adoption by Council. It replaces all other policies (whether written or not). Council may amend this policy by resolution.

Procedure

Upon receipt of a potential complaint, Council will consider whether it is a complaint, and if so:

- identify the category of complaint; and
- determine the relevant policy and procedure to manage that complaint.

For more information on how Council classifies complaints, refer to the Complaints Management Policy.

This procedure outlines the way in which Council will manage complaints of the following nature:

- Human Rights Complaint
- Competitive Neutrality Complaint
- Privacy Complaint

The following are not considered complaints, and will be managed under another procedure, for example, Council's Customer Service Charter:

- a request for a service or maintenance
- requests for information

Where possible, Council will aim to manage and resolve all complaints at the first point of contact.

If the Complaints Officer assesses that the complaint can be resolved informally, they will discuss the issue with the relevant Council Officer with a view to resolving the complaint without a formal investigation process.



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How to make a Complaint

Complaints can be made:

- In writing, by mail to Chief Executive Officer
Murweh Shire Council
PO Box 63
CHARLEVILLE QLD 4770
- By telephone 07 4656 8355
- By email mail@murweh.qld.gov.au
- In Person At the Council office in Charleville

To assist Council in understanding the nature of the complaint and any outcome sought, it is preferred that all complaints are submitted in writing.

If a telephone complaint is of a complex nature, you may be asked to put the complaint in writing before it will be actioned by Council.

If You Require Assistance to Make a Complaint

If you require assistance to make a complaint, Council will endeavour to provide that assistance. The aim will be to clarify what you wish to raise, and the outcome/s sought.

If you require interpreting services, or have additional needs, you will be referred to the nominated Complaints Officer who will provide advice or arrange assistance as practical.

Anonymous and Pseudonymous Complaints

Anonymous and pseudonymous complaints will be received however Council may have difficulty communicating with you, if you remain anonymous. When complaints can only be made by an affected person Council will make all reasonable attempts to contact the affected person in relation to the matter.

If you wish to lodge a complaint but do not wish to provide any identifying details, you are advised that:

- a) Council does not victimise a person who makes a complaint; and
- b) Unless there is sufficient detail about the complaint, it may be difficult for Council to fully and effectively investigate the issue.

Your Privacy and Confidentiality

All complaints will be treated with the relevant level of confidentiality.

When handling complaints, Council will manage your personal information in accordance the *Information Privacy Act 2009*.

You may want to know how Council is handling your complaint, how the investigation is progressing, and the outcome. Council will provide you with updates, however due to the Queensland Privacy Principles, we will not provide information that discloses personal information about the subject of an investigation, other individuals involved, or witnesses.

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Reporting and Review

The Governance team maintain oversight of the management of Council’s complaints registers, ensuring best practice is maintained and develop and prepare reports that provide information to assist the Executive Management Team in monitoring complaint management effectiveness.

Quality control of complaints will be undertaken by the Manager Governance and Chief Executive Officer, who will be responsible for ensuring the accuracy of data entered into the complaints register and ensuring compliance with the Complaints Management Policy and this procedure.

Appointment of a Complaints Officer

The CEO may delegate the power to investigate and deal with complaints to a Complaints Officer on an ongoing basis or may select and appoint an officer to investigate and deal with each individual complaint.

Skills of Complaints Officer

The person appointed as a Complaints Officer for a complaint must have the appropriate knowledge, qualifications, skill and experience, including the relevant investigative, analytical and report-writing skills, to investigate the complaint, make findings, formulate recommendations (where appropriate) and prepare a report on the outcome of the investigation for consideration by Council or its delegate.

Recordkeeping Requirements

All complaints will be recorded in Council’s electronic document management system (MagiQ) and referred to the CEO for investigation or assignment to a Complaints Officer.

The Complaints Officer must ensure all documents, including correspondence, files and decisions are recorded in MagiQ.

1. Human Rights Complaints

Under the *Human Rights Act 2019*, if you believe Council has breached or limited your human rights, you must submit your human rights complaint directly to Council. Complaints can only be made for breaches that occur after 1 January 2020.

Council has 45 days to respond to your complaint.

The steps for handling human rights complaints are:



Who Can Make a Human Rights Complaint

Under the *Human Rights Act 2019* an individual can submit a human rights complaint if they believe Council has breached or limited their human rights.

Only an affected person or their agent can lodge a human rights complaint.

Human rights complaints must be received from:

- the affected person directly communicating with a Council Officer; or
- the affected person consenting to another person (their agent) communicating a complaint on their behalf to a Council Officer.

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1.1 Receiving Human Rights Complaints

Human rights complaints can be submitted to Council through a variety of formats, such as by telephone, letter, email, online, or face-to-face. Council's contact information is detailed above.

Where necessary, the Complaints Officer will provide advice on the services available for individuals who need support in making a complaint.

1.2 Assessing the Human Rights Complaint

An initial assessment of the complaint will be made, to determine the context and circumstances of the complaint (and the individual who made the complaint) to determine its priority, how it should be managed and who should respond.

Within 10 days, the Complaint Officer will send an acknowledgement, noting the date of the complaint and any materials received.

This acknowledgement will include:

- details of the complaint/s
- how you can access the policy and procedure
- the anticipated timeframe to resolve your complaint
- the name of the Complaints Officer assigned to your complaint
- that the Complaints Officer may contact you to seek further information
- contact details of the Complaints Officer.

1.3 Considering and Identifying Human Rights

Human rights will Council's primary consideration when reviewing the complaint. This involves three (3) key steps:

1. Identify the human rights relevant to the complaint– see Attachment 1 – Human Rights
2. Consider whether the action or decision limits those human rights, and
3. Assess whether the limitation is justified and reasonable in the circumstance

1.4 Resolving Human Rights Complaints

Council is accountable for their actions and decisions. If it is found that Council has limited your human rights in a way that does not meet the requirements of the *Human Rights Act 2019* then appropriate actions will be considered to resolve the situation.

Subject to any applicable legislation and relevant policies of Council, some options may include:

- Acknowledging the error and apologising.
- Providing a better explanation for a decision or action.
- Explaining why or how the error occurred and the steps that Council is taking to prevent it happening again.
- Changing the decision.
- Updating policies, procedures or practices.
- Offering more training to staff.
- Advising that disciplinary or management action has been taken (if appropriate).

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1.5 Responding to Human Rights Complaints

The key aim of responding to your complaint will be to help you understand what the outcome is, and Council's reason for the decision. Providing you with clear reasons for decisions shows fairness, transparency and accountability on the part of Council.

At the conclusion of an investigation, you will be provided with written advice outlining:

- the outcome using plain English (or another language as necessary)
- how and why decisions were made
- list any remedies/and or other changes made as a result of the complaint
- provide information about your review rights if you are unsatisfied with the outcome, (including options for internal review of the complaint outcome, or referral to an external oversight body that may review the outcome)

1.6 Learning from Human Rights Complaints

Following a human rights complaint, Council may review relevant policies and procedures to ensure any future limitations on human rights are reasonable and justified.

1.7 Reporting on Human Rights Complaints

A register of human rights complaints processed by Council will be maintained by the Governance team and provided to the Executive Management Team (EMT) and Council on a quarterly basis, if required.

The register will record:

- details of each human rights complaint
- actions taken in dealing with the complaint
- the outcome of all complaints
- details of reviews of services, policies or procedures in relation to compatibility with human rights.

2. Competitive Neutrality Complaints

Council may undertake business activities involving the supply of goods and/or services in competition, or potential competition with the private sector.

A competitive neutrality complaint is made by an affected person alleging that Council has failed to conduct a business activity in accordance with the competitive neutrality principle, e.g. by utilising its position to compete unfairly with a business competitor.

The *Local Government Regulation 2012* requires every complainant to make a genuine attempt to resolve their concerns with Council relating to perceived non-compliance with the Competitive Neutrality Principles, before those concerns can trigger an investigation by the Queensland Productivity Commission.

What is a Competitive Advantage?

A competitive advantage is a business advantage of Council's business activity that is solely due to local government ownership. It can be financial advantage, a regulatory advantage, a procedural advantage, or any other advantage.

2.1 Who Can Make a Competitive Neutrality Complaint

A complaint can only be made by a person who:

- currently is competing with an activity alleged to have a competitive advantage; or

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- is hindered from competing by the alleged competitive advantage of Council's business under the *Local Government Act 2009*.

2.2 How to Make a Competitive Neutrality Complaint

Competitive neutrality complaints must be:

- addressed to the Chief Executive Officer
- made in writing.

Competitive neutrality complaints must briefly outline:

- the Council business activity related to the complaint
- how the complainant is adversely affected by the Council business activity (your concerns)
- the principles of the competitive neutrality allegedly compromised by the business activity
- the impact to the complainant of the alleged breach.

2.3 Investigation and Decision of Competitive Neutrality Complaint – Preliminary Procedure

The CEO may assign a Complaints Officer to the matter or choose to personally undertake the investigation of the matter.

Within 10 business days, the Complaints Officer will send an acknowledgement, noting the date of the complaint and any other materials received.

This acknowledgement will include:

- details of the complaint/s
- how you can access the policy and procedure
- the anticipated timeframe to resolve your complaint
- the name of the Complaints Officer assigned to your complaint
- that the Complaints Officer may contact you to seek further information
- contact details of the Complaints Officer.

The Complaints Officer will:

- follow procedures, gather information, and observe natural justice
- find the facts, apply the law and reasonably exercise discretion.

At the conclusion of the investigation, the Complaints Officer will:

- prepare a response to the concerns, and obtain the complainant's views on the proposed response
- submit a written report to the CEO on the concerns, together with the proposed response and the complainant's views on the proposed response

The CEO will consider the information and prepare a final response to the complainant in writing or direct the Complaints Officer to finalise the response in writing.

The final response will include details of how to make a formal complaint to the Queensland Productivity Commission.

2.4 Investigation and Decision of Competitive Neutrality Complaint – Formal Procedure

If your attempt to resolve your complaint with Council has not been successful, you can submit a formal competitive neutrality complaint in writing to the Queensland Competition Authority (the competition authority), or to Council.

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If a formal complaint is made directly to Council, we will refer that complaint to the authority to investigate. They are required to investigate complaints that fall within the scope of competitive neutrality provisions of the *Local Government Act 2009* and *Local Government Regulation 2012*, unless they consider that:

1. the complainant has not made a genuine attempt to resolve the issue with Council
2. the complainant is not, or will not be, in competition with the relevant Council business activity
3. the complainant is not, or is unlikely to be, adversely affected, even if the business activity does not comply with the competitive neutrality principle
4. the complaint is frivolous or vexatious.

The competition authority investigation will examine whether Council's business activity breached the competitive neutrality principle. They are required to consider the competitive neutrality criteria in their investigation — these criteria are set out in section 51 of the *Local Government Regulation 2012*.

A formal competitive neutrality complaint received by Council, will be processed as follows:

- on receipt of a formal complaint, the CEO will acknowledge the receipt of the complaint within 10 business days
- forward the complaint to the Queensland Competition Authority as soon as practicable.

The competition authority will investigate the complaint and provide a written report to Council and the business entity itself (if it is a separate legal entity to Council).

The report will state whether the competition authority considers the complaint to be substantiated.

If they decide that the local government business entity has a competitive advantage (or disadvantage), the report will also include recommendations on addressing this advantage (or disadvantage).

This report provides advice and recommendations only, and Council is not required to accept the advice.

Council must decide, by resolution, whether to implement the recommendations in the report, and the resolution must state the reasons for Council's decisions. Council must make this decision within 1 month after receiving the report, or if no ordinary meeting is held within that month, at the first meeting of Council after that month.

A copy of the report must be available for inspection by the public at Council's offices. There is no requirement for the report to be published on Council's website.

Within 7 days after making the resolution, the CEO will give notice of the resolution to:

- the complainant: and
- the competition authority: and
- if a corporatised business entity is conducting the business activity—the corporatised business entity.

If a corporatised business entity is conducting the business activity, the corporatised business entity must implement the recommendations as soon as practicable.

2.5 Confidentiality Requests

If you believe that the disclosure of information given, or to be given, to the competition authority is likely to damage your business activities, you can give the competition authority written notice that:

- states your belief; and
- asks the authority not to disclose the information to an external entity without your consent.

The competition authority may accept your confidentiality request if the authority is satisfied your belief is justified and disclosure of the information would not be in the public interest.

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If the competition authority accepts your confidentiality request, the authority must not include the information in a report about the investigation of a competitive neutrality complaint or otherwise disclose the information to an external entity.

3. Privacy Complaints

If you believe that Council has dealt with your personal information in a way that is not consistent with the Queensland Privacy Principles (QPPs) you may make a privacy complaint.

3.1 Who Can Make a Privacy Complaint?

Privacy complaints can only be made by an individual or their authorised agent about their own personal information.

3.2 How to Make a Privacy Complaint

Privacy complaints can be submitted to Council through a variety of formats, such as by telephone, letter, email, online, or face-to-face. Council's contact information is detailed above.

To assist Council in understanding the nature of the complaint and any outcome sought, it is preferred that privacy complaints are submitted in writing.

Where necessary, the Complaints Officer will provide advice on the services available for individuals who need support in making a complaint.

3.3 Assessment of Privacy Complaints

Upon receiving a privacy complaint, Council will ensure that the complaint is properly understood and will seek clarification or further information if necessary.

Council may refuse to deal with a privacy complaint when:

- the complaint does not concern your personal information
- the complaint concerns the personal information of a child and you are not the parent or guardian of the child
- the complaint concerns the personal information of an individual and you are not the agent of the individual authorised to act on their behalf
- 12 months have passed since the act or practice that is the subject of the complaint
- the complaint is considered vexatious, in that it is made maliciously or in bad faith.

If your privacy complaint has been refused based on one or more of the reasons noted above, the Complaints Officer will provide you with written advice within 10 business days.

3.4 Investigation and Decision of Privacy Complaints

Within 10 business days, the Complaints Officer will send an acknowledgement, noting the date of the complaint and any other material received.

This acknowledgement will include:

- details of the complaint/s
- how you can access the policy and procedure
- the name of the Complaints Officer assigned to your complaint
- that the Complaints Officer may contact you to seek further information
- contact details of the Complaints Officer.

Under the *Information Privacy Act 2009*, the timeframe for Council to respond to privacy complaints is 45 business days.

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The Complaints Officer will:

- follow procedures, gather information, and observe natural justice
- assess the complaint against the relevant QPPs
- find the facts, apply the law and reasonably exercise discretion.

At the conclusion of the investigation, you will be provided with written advice outlining:

- the steps taken to investigate your complaint
- the decision and clear reasons advising if your complaint was substantiated or unsubstantiated any recommendations or remedies.
- The written advice will also provide information about your external review rights.

3.5 Privacy Complaint Remedies

To resolve a substantiated privacy complaint, Council considers the following remedial actions appropriate:

- an apology
- developing or updating policies and procedures
- giving an undertaking that employees will attend refresher privacy training
- improving collection notices or the way a collection notice is provided to enhance awareness of what will or may happen to personal information once it is collected
- undertaking a physical or technical audit
- revisiting and revising outsourcing contracts which involve the handling of personal information
- correcting misleading or inaccurate documents by amending the document or allowing the complainant to provide a notation which can then be added to the document
- implementing additional security measures to documents which contain the complainant's personal information
- taking practical steps to recall the personal information or to take it down off a website
- clarifying precisely what personal information was involved in the breach by providing the complainant with administrative access to the relevant documents; or
- providing information and assistance to the complainant to deal with the consequences of the breach (for example, how to request a copy of their credit report for free or to access an employee assistance program)
- in some cases, financial compensation including an ex-gratia payment.

3.6 External Review

A privacy complaint must be made to Council first before it is submitted to the Office of the Information Commissioner (OIC). The *Information Privacy Act 2009* allows a maximum period of 45 business days from the date a privacy complaint was received for the Council to provide a response.

After the 45 business days have lapsed, you may lodge your complaint to the OIC if:

- you are unhappy with Council's response, or
- you have not received a response to your complaint.

This Council Procedure acknowledges the importance of fundamental human rights.

Council is committed to recognising and protecting these rights when creating policies and procedures that shape the frameworks, standards, behaviors, and actions of the Murweh Shire Council.

An assessment of this Procedure determined that it does not limit or affect any human rights.

Audit and Review

This policy shall be reviewed every **three years** or as required due to changes to in legislation.

Definitions

Affected Person

For a Human Rights Complaint – a person the subject of a public entity’s alleged contravention of section 58(1) of the *Human Rights Act 2019*; or

For a Competitive Neutrality Complaint – it is as defined in section 48(3) of the *Local Government Act 2009*; namely “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.”

CEO

Chief Executive Officer of Murweh Shire Council.

Competitive Neutrality Complaint (CNC)

As defined by section 48(2) of the *Local Government Act 2009* and involves a failure of a local government to conduct a business activity in accordance with the competitive neutrality principle. CNC complaints can only be lodged by an affected person.

Complainant

A person or organisation who makes a complaint.

Complaint Officer

An employee of Council, assigned by the CEO to manage the complaint.

Council

Murweh Shire Council

Human Rights

As defined in Part 2, Division 2 and 3 of the *Human Rights Act 2019* and includes:

- taking part in public life;
- freedom from forced work;
- privacy and reputation;
- cultural rights – generally;
- cultural rights – aboriginal and Torres Strait Islander peoples;
- property rights;
- peaceful assembly and freedom of association;

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- freedom of expression;
- freedom of movement;
- freedom of thought, conscience, religion and belief;
- recognition and equality before the law;
- right to life;
- protection from torture and cruel, inhuman or degrading treatment;
- protection of families and children;
- right to liberty and security of person;
- humane treatment when deprived of liberty;
- right to education;
- right to health services;
- fair hearing;
- rights in criminal proceedings;
- children in the criminal process;
- right not to be tried or punished more than once; and
- retrospective criminal laws.

Human Rights Complaint

A complaint about an alleged contravention by Council in relation to:

- acting or making a decision in a way that is not compatible with human rights; or
- in making a decision, failing to give proper consideration to a human right relevant to the decision.

Privacy Complaint

As defined in s164 of the *Information Privacy Act 2009* -

A complaint by an individual about an act or practice of a relevant entity in relation to the individual's personal information that is a breach of the relevant entity's obligation under this Act to comply with—

- a) the privacy principles; or
- b) an approval under section 157.

Vexatious Complaint

A complaint intended to, or perceived to intend to cause distress, embarrassment, or to harass the subject of the complaint which lacks sufficient grounds to warrant an investigation.

Version Control

Version No.	Date	Approved	Amendment
1.0	dd/mm/yyyy	[officer name]	[brief description]

Approval

Chief Executive Officer			
Date:	dd/mm/yyyy	Signature:	

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Attachment 1 – Human Rights

Human Rights	
Recognition and equality before the law (section 15)	Everyone is entitled to equal and effective protection against discrimination, and to enjoy their human rights without discrimination.
Right to life (section 16)	Every person has the right to life and to not have their life taken. The right to life includes a duty on government to take appropriate steps to protect the right to life.
Protection from torture and cruel, inhuman or degrading treatment (section 17)	People must not be tortured. People must also not be treated or punished in a cruel, inhuman or degrading way. This includes protection from treatment that humiliates a person. This right also protects people from having medical treatment or experiments performed on them without their full and informed consent.
Freedom from forced work (section 18)	A person must not be forced to work or be made a slave. A person is a slave when someone else has complete control over them.
Freedom of movement (section 19)	People can stay in or leave Queensland whenever they want to as long as they are here lawfully. They can move around freely within Queensland and choose where they live.
Freedom of thought, conscience, religion and belief (section 20)	People have the freedom to think and believe what they want – for example, religion. They can do this in public or private, as part of a group or alone.
Freedom of expression (section 21)	People are free to say what they think and want to say. They have the right to find, receive and share information and ideas. In general, this right might be limited to respect the rights and reputation of other people, or for the protection of public safety and order.
Peaceful assembly and freedom of association (section 22)	People have the right to join groups and to meet peacefully.
Taking part in public life (section 23)	Every person has the right to take part in public life, such as the right to vote or run for public office.
Property rights (section 24)	People are protected from having their property taken, unless the law says it can be taken.
Privacy and reputation (section 25)	Everyone has the right to keep their lives private. Your family, home or personal information cannot be interfered with, unless the law allows it.
Protection of families and children (section 26)	Families are entitled to protection. Children have the same rights as adults with added protection according to their best interests.
Cultural rights – generally (section 27)	People can have different family, religious or cultural backgrounds. They can enjoy their culture, declare and practice their religion and use their languages.
Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28)	Aboriginal and Torres Strait Islander peoples in Queensland hold distinct cultural rights. They include the rights to practice their beliefs and teachings, use their languages, protect and develop their kinship ties, and maintain their relationship with the lands, seas and waterways.

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<p>Right to liberty and security of person (section 29)</p>	<p>Everyone has the right to freedom and safety. The right to liberty includes the right to not be arrested or detained except in accordance with the law. The right to security means that reasonable steps must be taken to ensure the physical safety of people who are in danger of physical harm.</p>
<p>Humane treatment when deprived of liberty (section 30)</p>	<p>People have the right to be treated with humanity if they are accused of breaking the law and are detained.</p>
<p>Fair hearing (section 31)</p>	<p>A person has a right to a fair hearing. This means the right to have criminal charges or civil proceedings decided by a competent, independent and impartial court or tribunal after a fair and public hearing.</p>
<p>Rights in criminal proceedings (section 32)</p>	<p>There are a number of minimum guarantees that you have when you have been charged with a criminal offence. These include the right to be told the charges against you in a language you understand; the right to an interpreter if you need one; the right to have time and the facilities (such as a computer) to prepare your own case or to talk to your lawyer; the right to have your trial heard without too much delay; the right to be told about Legal Aid if you don't already have a lawyer; you are presumed innocent until proven guilty; and you don't have to testify against yourself or confess your guilt unless you choose to do so.</p>
<p>Rights of children in the criminal process (section 33)</p>	<p>A child charged with committing a crime or who has been detained without charge must not be held with adults. They must also be brought to trial as quickly as possible and treated in a way that is appropriate for their age. Children are entitled to opportunities for education and rehabilitation in detention.</p>
<p>Right to not be tried or punished more than once (section 34)</p>	<p>A person will only go to court and be tried once for a crime. This means if the person is found guilty they will only be punished once. If they are found to be innocent they will not be punished.</p>
<p>Retrospective criminal laws (section 35)</p>	<p>A person has the right not to be prosecuted or punished for things that were not criminal offences at the time they were committed.</p>
<p>Right to education (section 36)</p>	<p>Every child has the right to primary and secondary schooling. Every person has the right to have access to further vocational education, based on their ability.</p>
<p>Right to health services (section 37)</p>	<p>Everyone has the right to access health services without discrimination. This right also states that nobody can be refused emergency medical treatment.</p>

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Attachment 2 – Human Rights Complaint Handling Flowchart

