



# Complaint Management Procedure

<b>Responsible Manager</b>	Chief Executive Officer
<b>Head of power</b>	Complaint Management Policy
<b>Authorised by</b>	Chief Executive Officer
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## Contents

1. Relationship to Complaint Management Policy .....	3
2. Policy Statement .....	3
3. Application .....	4
4. Legislation/Policies .....	4
5. Interpretation.....	4
6. Specification .....	9
Part 2 – Complaint management process .....	9
7. Phase 1 – Notification .....	9
8. Phase 2 – Assessment .....	10
9. Phase 3 – Investigation.....	11
10. Phase 4 – Outcome .....	13
11. Phase 5 – Reporting .....	13
Part 3 – Human Rights Complaints .....	14
12. Process.....	14
Part 4 - Conduct or Performance of Councillors .....	14
13. Process.....	14
Part 5 - Corrupt Conduct Complaint .....	15
14. Process.....	15
Part 6 - Competitive Neutrality Complaints.....	15
15. Process.....	15
Part 7 - Privacy Complaints.....	17
16. Process.....	17
Part 8 – Procedure.....	17
17. Conduct .....	17
18. Notices.....	18
Schedules .....	19
Complaint Notification.....	19
Public Official Complaint Notification .....	21
Complaint Preliminary Checklist .....	23
Complaint Response Notice .....	25
Complaint Notification to.....	30
(Non-Councillor) Respondent .....	30
Complaint Notification to Councillor .....	32
Complaint Decision Notice.....	34

## 1. Relationship to Complaint Management Policy

Council is strongly committed to ensuring that the local government principles are reflected in its handling of complaints.

## 2. Policy Statement

- (a) Council acknowledges that people have a right to make complaints about its actions.
- (b) Council shall maintain open and transparent internal and external complaints management processes enabling continuous review of the conduct of Council, its employees, Councillors, contractors and agents.
- (c) Council is committed to encouraging the internal reporting of wrongdoing.
- (d) Council shall ensure that people are given help to make their complaint
- (e) Council shall ensure that people are not disadvantaged or treated unfairly after they make a complaint, and that Council provides appropriate protection and support to people who make public interest disclosures, and others related to a complaint.
- (f) Council shall respond quickly and efficiently to complaints in a fair and objective way, and deal with each complaint in accordance with the principles of natural justice.
- (g) Council, local government employees, Councillors, contractors and agents of Council shall conduct itself/ themselves strictly 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*, namely: -
  - i) transparent and effective processes, and decision-making in the public interest; and
  - ii) sustainable development and management of assets and infrastructure, and delivery of effective services; and
  - iii) democratic representation, social inclusion, and meaningful community engagement; and
  - iv) good governance of, and by, local government; and
  - v) ethical and legal behaviour of Councillors and local government employees; and
  - vi) integrity and impartiality;
  - vii) promoting the public good;
  - viii) commitment to the system of government; and
  - ix) accountability and transparency.
- (h) A failure of a local government employee, Councillor, contractor or agent to conduct oneself strictly in accordance with the Local Government Principles and Ethics Principles shall be thoroughly investigated by Council and if proven, met with appropriate disciplinary action as available under Council 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, Community Recovery and Resilience). A person who provides false or misleading information or makes false or misleading allegations may face disciplinary action.

### 3. Application

- a. This Procedure applies to all local government employees, Councillors, contractors and agents of Council
- b. This Procedure applies to:
  - i) all external complaints (from contractors, members of public, etc.) received by Council, including anonymous complaints; and
  - ii) all internal complaints dealing with matters other than personal work-related grievances (being grievances personal to the complainant about matters arising in the work environment) received by Council.
- c. This Procedure does not apply to internal 'grievances', being any type of problem, concern, or complaint relating to an employee's work or the work environment. Grievances are dealt with under Council's Grievance and Investigation Management Procedure (PO2-PR21).
- d. Council will apply Council's Public Interest Disclosure Policy and Management Program to:
  - i) assess whether a complaint is a public interest disclosure under the *Public Interest Disclosure Act 2010*; and
  - ii) manage any complaint that Council considers to be a public interest disclosure.

### 4. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Act 2009*, *Local Government Regulation 2012*, *Public Sector Ethics Act 1994*, *Public Interest Disclosure Act 2010*, *Human Rights Act 2019*, and *Crime and Corruption Act 2001*.

### 5. Interpretation

**Act** means the *Local Government Act 2009* or its successor.

**Administrative action** means an action about a matter of administration and includes each of the following:

- a) a decision and an act;
- b) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision;
- c) the formulation of a proposal or intention;
- d) the making of a recommendation.

**Affected person** means a person who is apparently directly affected by:

- a) an administrative action of a local government;
- b) alleged inappropriate conduct or misconduct by a Councillor;
- c) alleged corrupt conduct;
- d) a matter defined in section 48(3) of the Act relating to competitive neutrality.

**CCC** means the Queensland Crime and Corruption Commission (which has replaced the Crime and Misconduct Commission)

**CEO** means Chief Executive Officer of Torres Strait Island Regional Council

**CEO's Delegate** means, for complaints about administrative action, human rights, privacy, and competitive neutrality that do not involve public interest disclosures, alleged corrupt conduct or allegations about the conduct or performance of Councillors: The Executive Director Corporate Services

**Competition requirement** means a person satisfies a competition requirement in relation to an activity carried on by the entity if the person:

- a) competes with the local government business entity in relation to the activity;
- b) seeks to compete with the local government business entity in relation to the activity but is being hindered from doing so by the competitive advantage alleged by the person to be enjoyed by the entity.

**Competitive advantage** means an advantage that, solely because of local government ownership is:

- a) a financial advantage;
- b) a regulatory advantage;
- c) a procedural advantage;
- d) another advantage.

**Competitive neutrality complaint** means a complaint that:

- a) relates to the failure of a local government to conduct a business activity in accordance with the competitive neutrality principles; and
- b) is made by an affected person.

**Complaint** means an expression by an affected person indicating dissatisfaction

**Corporatised corporation** means a corporatised corporation under the Act

**Corrupt conduct** (which has replaced previous statutory *official misconduct*) means pursuant to section 15 of the *Crime and Corruption Act 2001*, conduct of a person, regardless of whether the person holds or held an appointment, that:

- a) adversely affects or could adversely affect directly or indirectly, the performance of functions or the exercise of powers of
  - i) a unit of public administration; or
  - ii) a person holding an appointment; and
- b) results or could result directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph a) in a way that:
  - i) is not honest or is not impartial; or
  - ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
  - iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
- c) would, if proved, be
  - i) a criminal offence; or
  - ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

*Corrupt conduct* also means conduct of a person, regardless of whether the person holds or held an appointment, that—

- a) impairs, or could impair, public confidence in public administration; and
- b) involves, or could involve, any of the following—
  - i) collusive tendering;
  - ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—
    - (A) protecting health or safety of persons;
    - (B) protecting the environment;
    - (C) protecting or managing the use of the State's natural, cultural, mining or energy resources;
  - iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;
  - iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
  - v) fraudulently obtaining or retaining an appointment; and
- c) would, if proved, be—
  - i) a criminal offence; or
  - ii) a disciplinary breach providing reasonable grounds for terminating the person's services if the person is or were the holder of an appointment.

**Council** means Torres Strait Island Regional Council

**Council employee** means all staff in the employ of Council or persons acting for and on behalf of Council as a contractor, agent, or assign, excluding a Councillor

**Councillor** means a Councillor duly elected as representative for the local government in their electorate division, including a person who is no longer a Councillor but who was a Councillor when the act is alleged to have happened

**Department** means the Queensland State Government department responsible for Local Government

**Human rights complaint** means a complaint that is about a human right that is protected under the *Human Rights Act 2019* (Qld)

**Inappropriate conduct** – the conduct of a councillor is inappropriate conduct if the conduct contravenes—

- a) a behavioural standard in the Code of Conduct for Councillors in Queensland; or
- b) a policy, procedure, or resolution of the local government.

Also, the conduct of a councillor is inappropriate conduct if—

- c) the conduct contravenes an order of the chairperson of a local government meeting for the councillor to leave and stay away from the place at which the meeting is being held; or
- d) it is part of a course of conduct at local government meetings leading to orders for the councillor's unsuitable meeting conduct being made on three occasions within a period

of one year. In this case, the conduct that led to the orders being made, taken together, is the inappropriate conduct.

However, inappropriate conduct does not include conduct that is—

- e) unsuitable meeting conduct, to the extent the conduct is not conduct mentioned in (c) or (d) above; or
- f) misconduct; or
- g) corrupt conduct.

**Legal Services Division** means the Legal Services Division of Council, responsible to the Office of the Chief Executive Officer

**Local government business entity** means Council to the extent it carries on business activity under the Act

**Misconduct** – the conduct of a councillor is misconduct if the conduct—

- a) adversely affects, directly or indirectly, the honest and impartial performance of the councillor’s functions, or the exercise of the councillor’s powers; or
- b) is or involves—
  - i) a breach of the trust placed in the councillor, either knowingly or recklessly; or
  - ii) a misuse of information or material acquired in, or in connection with, the performance of the councillor’s functions, whether the misuse is for the benefit of the councillor or for the benefit, or to the detriment, of another person; or
- c) contravenes any of the following—
  - i) an order of the local government or the conduct tribunal;
  - ii) Council’s acceptable requests guidelines;
  - iii) a policy of the local government about the reimbursement of expenses;
  - iv) laws about giving directions to local government staff (section 170 of the Act);
  - v) laws about use of information by Councillors (section 171 of the Act);
  - vi) section 150R, 173(4) or (5) of the Act.

Also, the conduct of a councillor is misconduct if the conduct—

- a) is part of a course of conduct leading to the local government deciding to take action to discipline the councillor for inappropriate conduct on three occasions within a period of one year (section 150AG of the Act) – in this case, the conduct that led to the three occasions of disciplinary action, taken together, is the misconduct.

or

- b) is of the same type stated in an order of the local government that if the councillor engages in the same type of conduct again, it will be dealt with as misconduct.

It does not matter if the conduct happened outside the State.

**PID Act** means *Public Interest Disclosure Act 2010*

**Privacy complaint** means a complaint under the *Information Privacy Act 2009* or *Right to Information Act 2009*

**Public interest disclosure** has the meaning given in the PID Act. The PID Act is directed at complaints or disclosures, in the public interest, of information about wrongdoing in the public

sector and where:

- (a) the person making the disclosure honestly believes on reasonable grounds that the information tends to show the wrongdoing/conduct or other matter (“subjective test”); or
- (b) the information tends to show the wrongdoing/conduct or other matter, regardless of whether the person honestly believes the information tends to show the wrongdoing/conduct or other matter (“objective test”).

In these circumstances, the PID Act provides unique protection from reprisal for public officers disclosing information in the public interest to an appropriate entity about:

- i) corrupt conduct, as defined in the *Crime and Corruption Act 2001*;
- ii) maladministration that adversely affects anyone’s interest in a substantial and specific way;
- iii) a substantial misuse of public resources (other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purpose, or priorities of expenditure); or
- iv) conduct by another person causing a substantial and specific danger to public health or safety or to the environment.

The PID Act can also provide protection to members of the community who make a public interest disclosure about:

- i) a substantial and specific danger to the health and safety of a person with a disability;
- ii) a substantial and specific danger to the environment; or
- iii) a reprisal taken against anybody as a result of a public interest disclosure.

Some disclosures are not protected by the PID Act, including frivolous or vexatious disclosures, those which question the merits of government or agency policy and those that are made to avoid disciplinary action. The PID Act limits the circumstances in which a public interest disclosure can be made to a journalist. It is an offence to make an intentionally false disclosure.

**QCA** means Queensland Competition Authority

**Queensland Competition Authority** means the Queensland Competition Authority under the *Queensland Competition Authority Act 1997*

**QHRC** means Queensland Human Rights Commission

**Reprisal** means detriment that is caused to a person as a result of the person making (or being believed to have made) a public interest disclosure.

A reprisal could include:

- (a) personal injury or prejudice to safety;
- (b) property damage or loss;
- (c) bullying, intimidation or harassment;
- (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;
- (e) financial loss;

- (f) damage to reputation, including, for example, personal, professional, or business reputation.

**Senior Manager** means a senior position in the organisation with a direct line reporting relationship to the CEO

**Unsuitable meeting conduct** – the conduct of a Councillor is unsuitable meeting conduct if the conduct—

- a) happens during a local government meeting; and
- b) contravenes a behavioural standard in the Code of Conduct for Councillors in Queensland.

## 6. Specification

- a) Council shall seek to follow the steps outlined in this Procedure in the investigation and resolution of complaints relating to administrative action, human rights, privacy, conduct or performance of Councillors, corrupt conduct, and competitive neutrality.
- b) In following the steps outlined in this Procedure, Council will comply with its legislative requirements set out in the relevant Acts and the Code of Conduct.
- c) This Procedure shall be read with and in the context of other Council policies and procedures.

## Part 2 – Complaint management process

### 7. Phase 1 – Notification

- a) A complaint should be notified to Council in writing, addressed to the CEO and:
  - i) posted to Council's registered business address;
  - ii) delivered to any Council office;
  - iii) sent by email to the CEO ([ceo@tsirc.qld.gov.au](mailto:ceo@tsirc.qld.gov.au)); or
  - iv) submitted using Council's online complaint notification form.

A complaint against the CEO should be notified in writing, addressed to the Mayor and:

- i) posted to Council's registered business address;
  - ii) sent by email to the Mayor ([mayor@tsirc.qld.gov.au](mailto:mayor@tsirc.qld.gov.au)); or
  - iii) submitted using Council's online public official complaint notification form.
- **Complaint Notification.**
- b) Upon receipt of a verbal complaint notification by a Council employee or Councillor, the Council employee or Councillor should advise the affected person or the affected person's agent, that the verbal complaint should be placed in writing and addressed to the CEO (or, for a complaint against the CEO, to the Mayor) specifying:
    - i) the allegations comprising the complaint;
    - ii) attaching or identifying any documentary or other evidence supporting the complaint;
    - iii) contact details for the affected person or affected person's agent;
    - iv) outcome sought from Council.

- c) Council employees and Councillors shall ensure that people are given help to make their complaint. Where necessary, Council employees and Councillors should assist complainants to record verbal complaints in writing and should arrange help if a person needs an interpreter or has special needs.
- d) Council employees and Councillors shall ensure that people are not disadvantaged or treated unfairly after they make a complaint, and that Council provides appropriate protection and support to people who make public interest disclosures, and others related to a complaint.
- e) Council officers and agents shall seek to keep the identity of the complainant confidential. However, in some cases the nature of a complaint may make the complainant's identity apparent to the person(s) who is the subject of the complaint. The complainant's identity may also become apparent to the subject of the complaint during or as a result of the complaint process.
- f) Upon receipt of any complaint, whether compliant or otherwise, this shall constitute a risk event under Council's Risk Management and Litigation Procedure which should immediately be notified to the Manager Legal Services.
- g) The CEO may approve and introduce at any time whilst this Procedure remains current, a written complaint template which may then be used by affected persons in submitting a complaint.
- h) Upon receipt of the compliant written complaint addressed to the CEO, the complaint must as early a reasonably practicable be brought to the attention of the CEO.
- i) Council cannot insist on a complaint being made to any particular person within Council or in any particular form. As such, once aware of a complaint, the Council employee or Councillor must immediately advise the CEO (or, for a complaint against the CEO, the Mayor).

## **8. Phase 2 – Assessment**

- a) Upon receipt of the complaint, the Legal Services Division shall review the complaint and action as follows:
  - i) For all complaints about the conduct or performance of Councillors, alleged corrupt conduct, and public interest disclosures: the Legal Services Division shall provide a draft Preliminary Complaint Checklist and recommendations to the CEO.
  - ii) For complaints about administrative action, human rights, privacy, and competitive neutrality: the Legal Services Division shall provide a draft Preliminary Complaint Checklist and recommendations to the Executive Director Corporate Services (as the CEO's Delegate).
  - iii) For complaints about the performance of Council employees (other than public official complaints, public interest disclosures and allegations of corrupt conduct): refer the complaint to the Head of People & Wellbeing to handle the complaint in consultation with the Executive Director for the employee the subject of the complaint.
- b) If the complaint is about Councillor conduct, the CEO shall refer the complaint directly to the Office of the Independent Assessor and advise the complainant accordingly. Otherwise, the Legal Services Division and the CEO shall assess whether or not:
  - i) the complaint is vexatious, frivolous, or trivial;

- ii) the affected person has sufficient direct interest in the subject matter complained about (a complaint will be rejected where the complainant has insufficient direct interest in the subject matter of the complaint, unless there are reasonable grounds for accepting the complaint);
  - iii) the complainant has a right of appeal, reference or review, or another remedy that the person has not exhausted;
  - iv) it would be reasonable in the circumstances to require the affected person to exhaust the right or remedy, before the Complaint Officer investigates or continues to investigate, the complaint;
  - v) the complaint is a public interest disclosure that should be dealt with under chapter 3 of the PID Act (refer to Council's Public Interest Disclosure Policy and Management Program);
  - vi) the complaint is about a human right that is protected under the Human Rights Act 2019
- c) Anonymous complaints will be accepted and dealt with like any other complaint. Important considerations include:
- i) how serious the complaint is;
  - ii) how much information is provided; and
  - iii) whether Council is able to properly investigate the complaint.
- d) As soon as reasonably practicable, Council will acknowledge receipt of the complaint notification or complaint.
- e) As soon as reasonably practicable, the CEO or CEO's Delegate (or, for a complaint against the CEO, the Mayor) shall provide a written response to the affected person or affected person's agent:
- i) accepting or rejecting the complaint;
  - ii) if accepted, advising that a Complaint Officer will be appointed to investigate the complaint, confirming the subject matter of the complaint. The CEO or CEO's Delegate (or, for a complaint against the CEO, the Mayor) shall also provide the Complaint Officer's contact details to enable the affected person or affected person's agent to give further details of the complaint if deemed necessary;
  - iii) if accepted, advising of the next stages in the complaint management process and anticipated timeframe for resolution;
  - iv) if accepted, advising the ability for the affected person, or affected person's agent to submit further information concerning the subject matter of the complaint to Council at any time during the investigation phase before the issue of the investigative report; and
  - v) if rejected, the reasons for rejection.

**(Complaint Response Notice)**

**9. Phase 3 – Investigation**

- a) Upon receipt of the written complaint and after issue of the Complaint Response Notice, the CEO or CEO's Delegate shall refer the complaint to the Senior Manager responsible

for the department of Council to which the complaint relates and the Legal Services Division for investigation and resolution.

- b) If the complaint relates directly to a Senior Manager, the complaint shall be investigated and resolved by the CEO.
- c) The CEO shall be the Complaint Officer with respect to complaints against the Mayor or Councillors, and the Mayor shall be the Complaint Officer with respect to complaints against the CEO. Where the CEO has a conflict of interest, the CEO may nominate a Senior Manager as Complaint Officer. Where the Mayor has a conflict of interest, the Mayor may nominate another Councillor as Complaint Officer.
- d) The CEO or CEO's Delegate, Mayor or Senior Manager shall be the primary and instructing investigator of the complaint (the Complaint Officer) assisted by assistant investigators as appointed by the CEO or CEO's Delegate (or Mayor, for a complaint against the CEO).
- e) The Complaint Officer shall investigate the complaint in good faith and expeditiously, as reasonable in the circumstances.
- f) When dealing with a complaint, the Complaint Officer should seek to:
  - i) talk to the person making the complaint to check whether all issues are identified and understood;
  - ii) gather and consider all relevant information about the complaint;
  - iii) identify and consider relevant laws, policies, and procedures;
  - iv) give anyone affected by the complaint a fair hearing before the complaint is decided; and
  - v) decide what can be done to fix a problem identified in the Complaint.

If the Complaint identifies a problem, Council may be able to fix the problem by:

- vi) apologising;
  - vii) offering a refund or financial compensation;
  - viii) reviewing its decision;
  - ix) changing its policy, practice, or procedure;
  - x) fixing misleading or inaccurate records;
  - xi) offering help, providing further information, or referring the complaint to someone who can help.
- g) Council employees, if requested by the Complaint Officer or assistant investigators, shall expeditiously assist them in good faith. A failure to assist by the Council employee or Councillor in good faith may amount to a breach of statutory duty which may result in disciplinary action being brought against the Council employee or Councillor.
  - h) If a Senior Manager is appointed as Complaint Officer, once the investigation of the complaint is complete, the Complaint Officer shall provide the CEO or CEO's Delegate (or, in the case of a CEO conflict of interest, the CEO's delegate) with a written recommendation arising out of the investigation to:
    - i) take specific action to resolve the complaint, with reasons;
    - ii) refrain from taking further action with respect to the complaint, with reasons.

**(the Investigative Report)**

- i) Upon receipt of the Investigative Report, the CEO or CEO's Delegate shall as soon as practicable give instructions to the Complaint Officer to:
  - i) proceed as recommended in the Investigative Report;
  - ii) proceed alternatively as stipulated by the CEO (or the CEO's delegate), with reasons.

**(the Investigative Outcome Notice)**

- j) if the CEO or CEO's Delegate is the Complaint Officer, the CEO or CEO's Delegate needs only prepare an Investigative Outcome Notice for Council's records.
- k) If the Mayor is the Complaint Officer, the Mayor needs only prepare an Investigative Outcome Notice for Council's records.
- l) Upon receipt of the Investigative Outcome Notice by the Complaint Officer, the Complaint Officer shall follow instructions contained therein as early as reasonably practicable.

**10. Phase 4 – Outcome**

- a) Upon acting out the instructions contained in the Investigative Outcome Notice, the Complaint Officer shall as early as reasonably practicable, provide the affected person or the affected person's agent, with a written notice setting out the outcome of the investigation as detailed in the Investigative Outcome Notice, with brief reasons, provided that all information in the Outcome Notice is compliant with privacy laws.

**(the Complaint Decision Notice)**

- b) If the affected person is dissatisfied with the outcome of the investigation, the affected person may wish to pursue an external appeal process (for example, a statutory right of review, if available).

**11. Phase 5 – Reporting**

- a) Particulars of the complaint and the outcome shall be recorded in the Complaint Management Register which shall be maintained by the CEO assisted by the Legal Services Division.
- b) For complaints regarding Councillor conduct, in addition to recording the complaint under paragraph (a) above, the CEO shall ensure that Council's Councillor Conduct Register is updated in accordance with section 150DX of the *Local Government Act 2009*. The Councillor Conduct Register shall be maintained by the CEO assisted by the Legal Services Division.
- c) The CEO shall provide an annual report to Council and Executive Managers on the operation of the Complaint Management Procedure, including identifying and analysing any complaint trends and significant issues, and any recommendations for improvement.
- d) The CEO shall ensure that data is collected and analysed to respond to complaints and to monitor the effectiveness of the Complaint Management Procedure.
- e) The CEO shall monitor how Council will implement accepted recommendations for improvement of the Complaint Management Process.

Paragraph 7 to 11 constitute the Complaint Management Process.

## Part 3 – Human Rights Complaints

### 12. Process

- a) At PHASE 2 - ASSESSMENT of the Complaint Management Process, the Complaints Officer shall consider whether the complaint is about a human right that is protected under the *Human Rights Act 2019*. The Complaints Officer shall identify the human rights relevant to the complaint, including human rights specifically mentioned by the Complainant and any other human rights that may also be relevant that the Complainant has not identified.
- b) Where necessary, Council should ask the Complainant for details on how the Complainant believes a decision or action breached human rights or was not proportionate.
- c) At PHASE 3 – INVESTIGATION of the Complaint Management Process, the Complaint Officer shall, for the human right(s) relevant to the Complaint, consider whether the action or decision complained about limits the human right(s). The Complaint Officer shall make a record of the human rights assessment of the Complaint. If human rights have not been limited in any way, then the action or decision is compatible with human rights. If the human rights have been limited, the Complaint Officer shall consider the factors set out in section 13 of the *Human Rights Act 2019* and address the following questions to assess whether the limitation is justified and reasonable in the circumstances:
  - i) What law allows Council to limit a human right?
  - ii) What is the nature of the right – what does it protect?
  - iii) What is Council's purpose for limiting the right?
  - iv) Is there a relationship between the limit on the human right and the purpose of the limit? Does the limitation achieve Council's purpose?
  - v) Are there any less restrictive ways to achieve the same outcome without limiting the human right (or limiting it to a lesser extent)? Are these options reasonably available?
  - vi) Does the importance of achieving Council's purpose outweigh the harm caused by limiting the human right?
- d) The Complaint Officer may need to seek information about why a decision was made, how the decision was made, and whether proper consideration was given to the individual's human rights in making the decision.
- e) The Decision Notice shall be given to the complainant within a period of 45 business days of receipt of the Complaint Notification. After 45 business days, the Complainant may take the complaint to the Queensland Human Rights Commission.

## Part 4 - Conduct or Performance of Councillors

### 13. Process

- a) Phases 1, 2 and 5 of the Complaint Management Process apply to this category of complaints.
- b) Complaints about Councillor conduct must be referred directly to the Office of the

Independent Assessor.

- c) Unsuitable meeting conduct shall be dealt with in accordance with Council's Meeting Procedure Policy and Standing Orders Policy.
- d) Where the Office of the Independent Assessor refers a complaint about suspected inappropriate conduct to Council for investigation, Council shall investigate the complaint in accordance with the Investigation Policy.

## **Part 5 - Corrupt Conduct Complaint**

### **14. Process**

- a) Phases 1 and 2 of the Complaint Management Process apply to this category of complaints. However, if the complaint is about Councillor conduct, the complaint must be referred directly to the Office of the Independent Assessor.
- b) The CEO must not delegate a complaint about alleged corrupt conduct to another Complaint Officer. However, where the CEO has a conflict of interest, the CEO may nominate a Senior Manager as Complaint Officer.
- c) The CEO, in conjunction with the assistant investigators must assess the complaint to determine whether or not it is a corrupt conduct complaint.
- d) If the complaint is against the CEO, the complaint shall be dealt with in accordance with Council's Complaint (Public Official) Policy by the Nominated Person under Complaint (Public Official) Policy.
- e) If the CEO (or, where the Complaint (Public Official) Policy applies, the Nominated Person) considers that the complaint is not a corrupt conduct complaint, it shall be dealt with in accordance with the Complaint Management Procedure as an administrative action complaint or under another appropriate complaint category in this or another procedure.
- f) If the CEO or Mayor considers that the complaint is a corrupt conduct complaint, they shall refer the matter on to the CCC and other relevant authority (e.g. Queensland Police Service) as required within the applicable legislation.
- g) Council, by way of its employees, Councillors, contractors, agents, or assigns must not:
  - i) obstruct or fail to take part in a prosecution for an offence committed;
  - ii) deliberately withhold evidence relevant to a prosecution;
  - iii) promise to secure discontinuance of the prosecution.
- h) Where a Council employee has been found to have committed corrupt conduct, Council shall seek to follow the procedural steps set out in the Human Resources Handbook with respect to taking disciplinary action.
- i) The affected person shall be advised in writing of the outcome of the investigation by issue of a Decision Notice.

## **Part 6 - Competitive Neutrality Complaints**

### **15. Process**

- a) Under the competitive neutrality principle, an entity that is conducting a business activity

in competition with the private sector should not enjoy a net advantage over competitors only because the entity is in the public sector.

- b) A person who is concerned that Council may not be complying with the competitive neutrality principle should raise those concerns with:
  - i) the Senior Manager responsible for the business activity; and/or
  - ii) the CEO's Delegate; and/or
  - iii) the Chief Executive Officer.
- c) If, without making a complaint, a person raises concerns about alleged failure of a Council business entity to comply with the competitive neutrality principle in conducting the business activity, Council officers shall refer the person to:
  - i) the Senior Manager responsible for the business activity; and
  - ii) the Chief Executive Officer.
- d) The CEO, CEO's Delegate, and the Senior Manager responsible for the business activity shall:
  - i) seek to clarify and respond to the person with a view to resolving the person's concerns before the person makes a complaint; and
  - ii) if the person is dissatisfied with the response, advise the person that the person can make a formal complaint in writing to the CEO or the Queensland Productivity Commission.
- e) A competitive neutrality complaint must be in writing and must contain:
  - i) details of the 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
  - ii) information that shows—
    1. the person (the complainant) is, or could be, in competition with the business entity; and
    2. how the complainant is, or may be, adversely affected by the business entity's alleged failure; and
    3. the complainant has made a genuine attempt to resolve the complaint through the process mentioned above in this Part.
- f) Phases 1, 2 and 5 of the Complaint Management Process apply to this category of complaints.
- g) If a person makes a competitive neutrality complaint to Council, the CEO or CEO's Delegate 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*).
- h) Council officers shall ensure that commercial confidentiality is maintained in the course of all of Council's dealings with a competitive neutrality concern or complaint.

## Part 7 - Privacy Complaints

### 16. Process

- a) The Complaint Management Process shall apply to this category of complaints.
- b) At PHASE 2 - ASSESSMENT of the Complaint Management Process, the Complaints Officer shall be the Information Officer nominated by the Chief Executive Officer under the Information Privacy Procedure, as pertaining to the Officer's area(s) of responsibility.
- c) The Decision Notice shall be given to the complainant within a period of 45 business days of receipt of the Complaint Notification.

## Part 8 – Procedure

### 17. Conduct

- a) Complaint Officers shall investigate and address expeditiously, in good faith and impartially, any compliant complaint having progressed beyond the PHASE 2 - ASSESSMENT.
- b) Complaint Officers shall ensure a fair, efficient and consistent treatment of complaints.
- c) The timeframe for dealing with a complaint will depend on an assessment of the following factors by the Complaint Officer, namely:
  - i) the urgency of the situation in terms of loss or damage likely to be suffered if the complaint is not quickly resolved;
  - ii) the likelihood that the complaint can be resolved within a reasonable timeframe; and
  - iii) the complexity of the complaint issues.
- d) The timeframe for completion of the investigation may vary based on factors such as complexity of the allegations, availability of witnesses, public holidays, staff leave rosters, volume of evidence gathered and severity of alleged conduct.
- e) Complaint Officers shall take each and every complaint seriously unless otherwise notified by the CEO or CEO's Delegate.
- f) The Complaint Officer and assistant investigators must maintain reasonable verbal and/or written communication with the affected person(s) throughout the PHASE 3 - INVESTIGATION of the Complaint Management Process and should return phone calls received from the affected person or the affected person's agent as soon as reasonably practicable.
- g) Complaint Officers and assistant investigators shall maintain a professional, pleasant, and composed attitude and demeanour towards implementing the Complaint Management Procedure throughout all dealings with affected persons and third parties.
- h) Complaint Officers and assistant investigators will refrain from:
  - i) exhibiting any conduct, by way of correspondence or otherwise, which may be construed as a "threat" pursuant to section 359 of Schedule 1 (The Criminal Code) of the *Criminal Code Act 1899*, or its successor
  - ii) contravening any other law of the State or Commonwealth

## 18. Notices

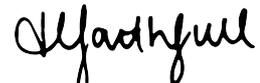
The CEO may approve and introduce at any time whilst this Procedure remains current, template notices for use by Council employees in the complaint management process, which are annexed to Schedule 1 of this Procedure.

Manager Responsible for Review:

Chief Executive Officer

**Approved:** 4 March 2022

**Due for Revision:** 30 June 2023



Mollie Faithfull

A/Chief Executive Officer

## Schedule – Prescribed Forms



## TORRES STRAIT ISLAND REGIONAL COUNCIL

### Complaint Notification

To make a complaint about Council action or inaction, a human rights or privacy complaint, or a complaint regarding a Council enterprise, a Council employee (other than the CEO), contractor or agents please fill out the form below. To make a complaint about the CEO, please fill out the Public Official Complaint Notification form.

Complaints about Councillor conduct should be made directly to the Office of the Independent Assessor:

In person: Level 13, 53 Albert Street, Brisbane City

Phone: 1300 620 722;

Email: [oiacomplaints@oia.qld.gov.au](mailto:oiacomplaints@oia.qld.gov.au)

Website: [www.oia.qld.gov.au](http://www.oia.qld.gov.au)

I would like to make a complaint to Torres Strait Island Regional Council

Complaint details – please describe what exactly happened and the persons involved:

When and where did this happen?

If you have supporting documents, please deliver, post or email to the addresses below.

Have you previously raised this complaint with Council?                      Yes / No

If yes, when and how did you make the complaint?

What would you expect Council to do to resolve your complaint?

Your contact details:

Name:	
Address:	
Email:	
Phone:	
Signature:	

You can print, sign and post this complaint to the Chief Executive Officer, Torres Strait

## Schedule – Prescribed Forms

Island Regional Council, PO Box 7336, CAIRNS QLD 4870  
or email the signed form to: ceo@tsirc.qld.gov.au  
or in person at any Council office.

### ACKNOWLEDGEMENT

By submitting this signed Complaint Notification form, you acknowledge, agree and consent:

- that all statements contained herein are true and correct; and
- to this document being used in the investigation of the complaint; and if deemed appropriate by the Council, used in actions pertaining to the complaint; and
- that you will assist the Council fully in the investigation of this complaint and any action following the resolution of the complaint. You may be required to provide evidence in a Court of Law or other forum; and
- that although Council seeks to keep your identity confidential, your identity may become apparent to the person(s) who is the subject of the complaint during or as a result of the complaint process; and
- that the nature of the complaint may make your identity apparent to the subject of the complaint; and
- to the release of your allegations to the person(s) subject of the complaint.

### PRIVACY STATEMENT

In managing your complaint, Council seeks to keep your identity confidential. However, the nature of the complaint may make your identity apparent to the person(s) who is the subject of the complaint. Your identity may also become apparent to the subject of the complaint during or as a result of the complaint process.

Your personal information is protected by law and can only be released to someone else where authorised by law or where you give your permission.

Council is collecting the personal Information contained in this document for the purpose of addressing your complaint. This collection of personal information is authorised by law under the *Local Government Act 2009*. It is Council's practice that the personal information contained in this document is disclosed to the Queensland Government as part of its regulatory requirements under the *Local Government Act 2009* and *Local Government Regulation 2012*.

After receipt of your Complaint Notification form, Council will respond to you in writing as soon as reasonably practicable. If you have any questions, please contact the Compliance Officer on (07) 4034 5700.

[For the web]:

or submit the form by email by clicking on the **Submit** button; by doing this you agree that your email is a record of your electronic signature. The webform complaint will be delivered directly to the CEO's inbox.

## Schedule – Prescribed Forms



### TORRES STRAIT ISLAND REGIONAL COUNCIL

#### Public Official Complaint Notification

To make a complaint about Council's CEO, please fill out the form below. This form should not be used for complaints that are not about the CEO.

I would like to make a complaint to Torres Strait Island Regional Council

Complaint details – please describe what exactly happened and the persons involved:

When and where did this happen?

If you have supporting documents, please deliver, post or email to the addresses below.

Have you previously raised this complaint with Council?                      Yes / No

If yes, when and how did you make the complaint?

What would you expect Council to do to resolve your complaint?

Your contact details:

Name:	
Address:	
Email:	
Phone:	
Signature:	

You can print, sign and post this complaint to the Mayor, Torres Strait Island Regional Council, PO Box 7336, CAIRNS QLD 4870  
or email the signed form to: [mayor@tsirc.qld.gov.au](mailto:mayor@tsirc.qld.gov.au)

## Schedule – Prescribed Forms

### ACKNOWLEDGEMENT

By submitting this signed Complaint Notification form, you acknowledge, agree and consent:

- that all statements contained herein are true and correct; and
- to this document being used in the investigation of the complaint; and if deemed appropriate by the Council, used in actions pertaining to the complaint; and
- that you will assist the Council fully in the investigation of this complaint and any action following the resolution of the complaint. You may be required to provide evidence in a Court of Law or other forum; and
- that although Council seeks to keep your identity confidential, your identity may become apparent to the person(s) who is the subject of the complaint during or as a result of the complaint process; and
- that the nature of the complaint may make your identity apparent to the subject of the complaint; and
- to the release of your allegations to the person(s) subject of the complaint.

### PRIVACY STATEMENT

In managing your complaint, Council seeks to keep your identity confidential. However, the nature of the complaint may make your identity apparent to the person(s) who is the subject of the complaint. Your identity may also become apparent to the subject of the complaint during or as a result of the complaint process.

Your personal information is protected by law and can only be released to someone else where authorised by law or where you give your permission.

Council is collecting the personal Information contained in this document for the purpose of addressing your complaint. This collection of personal information is authorised by law under the *Local Government Act 2009*. It is Council's practice that the personal information contained in this document is disclosed to the Queensland Government as part of its regulatory requirements under the *Local Government Act 2009* and *Local Government Regulation 2012*.

After receipt of your Complaint Notification form, Council will respond to you in writing as soon as reasonably practicable. If you have any questions, please contact the Compliance Officer on (07) 4034 5700.

[For the web]:

or submit the form by email by clicking on the **Submit** button; by doing this you agree that your email is a record of your electronic signature. The webform complaint will be delivered directly to the Mayor's inbox.

## Schedule – Prescribed Forms



### Complaint Preliminary Checklist OFFICE USE ONLY

#### Complaint notification:

Complainant details (if known):	Date Lodged:
Legal Services Department Reference Number: C2 - _____ - _____ (Category _____ & Criteria _____)	
Complaint registration made by: Website      Letter      In person      Email      Phone      Other [specify]:	
Staff member who received the complaint and date:	

#### Recommendation:

<b>Complaint Status:</b> Acceptance <input type="checkbox"/> / Rejection <input type="checkbox"/>	<b>CEO / Delegate approval:</b> Date:
Notes:	
Legal Services Division monitoring schedule: CEO / Delegate approval <input type="checkbox"/> Date: Notification letter prepared <input type="checkbox"/> Date: Referred for investigation <input type="checkbox"/> Date:      Due date: Follow up action for outcome <input type="checkbox"/> Date:      Date: ECM filing <input type="checkbox"/> Date:	

## Schedule – Prescribed Forms

### Assessment:

<b>Complaint type:</b>	
<b>A:</b> Performance complaint (other than public official complaints, public interest disclosures and allegations of corrupt conduct) (Refer to Head of People & Wellbeing) Note: Refer internal <i>grievances</i> to Head of People & Wellbeing.	<b>D:</b> Complaint against a Councillor (Refer directly to Office of Independent Assessor)
<b>B:</b> Action taken or failed to be taken by Council	<b>E:</b> Privacy Complaint
<b>C:</b> Complaint regarding Council enterprise	<b>F:</b> Human rights complaint
<b>Complaint Investigator:</b>	<b><u>Chief Executive Officer</u></b>
<b><u>Executive Director Corporate Services</u></b> (Corporate Affairs, Legal Services, P&W, IT)	<b><u>Executive Director Engineering Services</u></b> (Water, Waste including Fuel & Fleet)
<b><u>Executive Director Financial Officer</u></b> (Financial, Procurement & Assets)	<b><u>Executive Director Community &amp; Building Services</u></b> (including Environmental & Housing)
<b>Assessment:</b>	
<b>A.</b> Is the complaint vexatious, frivolous or trivial?	Yes / No (If yes, provide details.)
<b>B.</b> Does the affected person have sufficient direct interest in the subject matter of the complaint?	Yes / No (If no, provide details.)
<b>C.</b> Does the complainant have a right of appeal, reference or review, or another remedy that the person has not exhausted?	Yes / No (If yes, provide details.)
<b>D.</b> Has the affected person exhausted the right or remedy before the investigation process commences?	Yes / No (If no, provide details.)
<b>E.</b> Has the subject matter of the complaint already been dealt with by Council under previous complaint(s)?	Yes / No (If yes, provide details.)
<b>F.</b> Is the complaint a public interest disclosure that should be dealt with under Chapter 3 of the <i>Public Interest Disclosure Act 2010</i> ?	Yes / No
<b>G.</b> Is the complaint about a human right that is protected under the <i>Human Rights Act 2019</i> ?	Yes / No (If yes, provide details.)
<b>H.</b> Are further particulars required?	Yes / No (If yes, provide details.)
<i>Provides details for assessment questions A-H above:</i>	

## Schedule – Prescribed Forms



### TORRES STRAIT ISLAND REGIONAL COUNCIL

## Complaint Response Notice

Your reference: [if any]

BY POST and/or BY EMAIL

Our reference: [ECM file No]

Email:

[Date]

[Name]

[Address]

### **PRIVATE AND CONFIDENTIAL**

**COMPLAINT RESPONSE NOTICE** – [insert Complaint Register reference number]

I acknowledge receipt of your [Complaint Notification / Complaint] dated [insert date] about [insert] ("the Complaint")

### **[IF DECLINED:]**

I have determined to decline formal investigation of the Complaint because:

- (a) the Complaint is considered to be vexatious;
- (b) the Complaint is considered to be frivolous;
- (c) the Complaint is considered to be trivial;
- (d) the subject matter of the Complaint has already been dealt with by Council under a previous complaint by you;
- (e) you do not have sufficient direct interest in the subject matter complained of; and/or
- (f) you have other appeal, reference or review rights or another remedy available to you, which you have not exhausted, namely **[PROVIDE PARTICULARS]**.

Should you be unhappy with this decision, you may submit a written complaint seeking internal review of the decision by Council.

Should you require further information with respect to the above process, please do not hesitate to contact the Compliance Officer on (07) 4034 5700.

### **[FOR COMPLAINT ABOUT COUNCILLOR CONDUCT:]**

I consider that the Complaint is a complaint against a Councillor (**CATEGORY D**).

- a) Under the *Local Government Act 2009*, I am required to refer the Complaint to the Office of the Independent Assessor for assessment. When the assessment is finished, Council will contact you to advise of the outcome.

## Schedule – Prescribed Forms

### **[FOR COMPLAINT AGAINST THE CEO (NOTE: THE COMPLAINT RESPONSE NOTICE IS ISSUED BY THE MAYOR)]**

I have undertaken a threshold assessment of the Complaint in accordance with Council's Complaint (Public Official) Policy ("the Policy") and Complaint Management Procedure ("the Procedure") and have determined to accept formal investigation.

b) I have referred the Complaint to an external investigator/agent for assessment and, if appropriate, investigation in accordance with the terms of the Procedure. This referral must not be construed as acceptance of any liability, wholly or partly by the person subject of the complaint, or by Council, or used as evidence of any wrongdoing whatsoever by any party to this investigation.

c)

#### **COMPLAINT SCHEDULE**

**Complaint Reference** [Complaint Register Reference No]

**Complaint Officer(s)** [Name] [Position]

**Contact Details** Ph: [Telephone Numbers]

Fax: [Fax No]

Email: [Email addresses]

**Summary of Complaint** [Brief summary of complaint]

You can at any time during the investigation provide additional information which may assist in our investigation, to the Complaint Officer listed above.

The investigation completion date is estimated at **[insert date] [45 days for a Privacy Complaint]**. Please note that this date is an estimate only and is subject to change without further reference to you.

The date may vary based on factors such as complexity of the allegations, availability of witnesses, public holidays, staff leave rosters, volume of evidence gathered and severity of alleged conduct.

The investigation will be conducted in accordance with the principles of natural justice.

When the investigation is finished, Council will provide you with a Decision Notice. This Notice will contain the outcome of the investigation and provide reasons for the decision.

You may receive correspondence from Council during the investigation phase requesting additional information. Should you not respond quickly and comprehensively to this request, Council may be unable to progress the investigation further. This may lead to Council closing the Complaint file.

### **[FOR ALL OTHER COMPLAINTS:]**

I have undertaken a threshold assessment of the Complaint in accordance with Council's Complaint Management Procedure ("the Procedure") and have determined to accept formal investigation under the Procedure as the Complaint falls within the scope of the Procedure. The Complaint has been assessed as:

- a complaint about the performance of a Council employee, contractor, or agent (**CATEGORY A**); and

## Schedule – Prescribed Forms

- a complaint about action or in-action taken/failed to be taken by Council (**CATEGORY B**); and
- a complaint about a Council enterprise (**CATEGORY C**); and
- a privacy complaint (**CATEGORY E**); and
- a human rights complaint (**CATEGORY F**).

I consider it appropriate for this matter to be referred to an external investigator/agent for assessment and, if appropriate, investigation in accordance with the terms of the Procedure. This referral must not be construed as acceptance of any liability, wholly or partly by the person subject of the complaint, or by Council, or used as evidence of any wrongdoing whatsoever by any party to this investigation.

d) [OR]

I have referred the Complaint to the nominated Complaint Officer(s) for investigation in accordance with the terms of the Procedure. This referral must not be construed as acceptance of any liability, wholly or partly by the person subject of the complaint, or by Council, or used as evidence of any wrongdoing whatsoever by any party to this investigation.

### COMPLAINT SCHEDULE

<b>Complaint Reference</b>	[Complaint Register Reference No]
<b>Complaint Officer(s)</b>	[Name] [Position]
<b>Contact Details</b>	Ph: [Telephone Numbers]
	Fax: [Fax No]
	Email: [Email addresses]
<b>Summary of Complaint</b>	[Brief summary of complaint]

You can at any time during the investigation provide additional information which may assist in our investigation, to the Complaint Officer listed above.

The investigation completion date is estimated at **[insert date] [45 days for a Privacy Complaint]**. Please note that this date is an estimate only and is subject to change without further reference to you.

The date may vary based on factors such as complexity of the allegations, availability of witnesses, public holidays, staff leave rosters, volume of evidence gathered and severity of alleged conduct.

The investigation will be conducted in accordance with the principles of natural justice.

When the investigation is finished, Council will provide you with a Decision Notice. This Notice will contain the outcome of the investigation and provide reasons for the decision.

You may receive correspondence from Council during the investigation phase requesting additional information. Should you not respond quickly and comprehensively to this request, Council may be unable to progress the investigation further. This may lead to Council closing the Complaint file.

**[DELETE IF INAPPLICABLE:]**

**Request for further information**

## Schedule – Prescribed Forms

I refer to the allegation in the Complaint about [INSERT DETAILS]. Please advise [DETAIL PARTICULARS REQUIRED]. Please provide as much detail as possible, in writing **by [insert date]**. Without further details, Council will be unable to investigate this allegation.

### **[INCLUDE FOR A PUBLIC INTEREST DISCLOSURE:]**

I consider the Complaint to be a public interest disclosure under the *Public Interest Disclosure Act 2010* (the PID Act). Generally speaking, a public interest disclosure is a complaint or disclosure, in the public interest, of information about wrongdoing in the public sector.

Council's policy is to keep the identity of complainants confidential. However, in some cases the nature of a complaint may make the complainant's identity apparent to the person(s) who is the subject of the complaint. The complainant's identity may also become apparent to the subject of the complaint during or as a result of the complaint process.

The Complaint is confidential, and you are requested to maintain the integrity of the process by not discussing it with colleagues, and by keeping all correspondence confidential. As an employee you may share information with the employee assistance program, your union representative or support person.

One of the main purposes of the PID Act is to provide people who make public interest disclosures with protection from reprisal. A "reprisal" is detriment that is caused to a person as a result of the person making (or being believed to have made) a public interest disclosure. A reprisal could include:

- (g) personal injury or prejudice to safety;
- (h) property damage or loss;
- (i) bullying, intimidation or harassment;
- (j) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;
- (k) financial loss
- (l) damage to reputation, including, for example, personal, professional or business reputation.

Council is committed to protecting those who make public interest disclosures and associated third parties. I have assessed the risk of a reprisal to you (as the discloser) and others associated with you (including those who may wrongly be suspected of being a discloser). Council will ensure protective measures are in place which are proportionate to the risk of reprisal, and the potential consequences of a reprisal. Please note that a public interest disclosure does not prevent reasonable management action.

If you are concerned about reprisals or you feel as though you have been disadvantaged or subjected to a reprisal for making a disclosure, please contact the Compliance Officer on (07) 4034 5700.

Council ensures that all people involved in public interest disclosures (as discloser or subject) are offered an appropriate level of support and case management. Employees who have a public interest disclosure made against them (subject officers) are assumed to be innocent or any adverse allegation until there is evidence to the required standard of proof to show otherwise.

I realise that this may be a difficult time for you. Council has an employee assistance program which provides counselling to our employees. This system is one of self-referral. To enquire about confidential counselling contact AccessEAP on 1800 81 87 28.

## **Schedule – Prescribed Forms**

If you have any specific queries in relation to the investigation, please contact the nominated Complaint Officer.

Should you require further information with respect to the above process, please do not hesitate to contact the Compliance Officer on (07) 4034 5700.

Yours faithfully

**[Name]**

**Chief Executive Officer [or CEO's Delegate]**

## Schedule – Prescribed Forms



### TORRES STRAIT ISLAND REGIONAL COUNCIL

## Complaint Notification to (Non-Councillor) Respondent

Your reference: [if any]

BY POST and/or BY EMAIL

Our reference: [ECM file No]

Email:

[Date]

[Name]

[Address]

### **PRIVATE AND CONFIDENTIAL**

**COMPLAINT NOTIFICATION** – [insert Complaint Register reference number]

I refer to our recent telephone conversation. This letter is to confirm that TSIRC has received a complaint against you (“the Complaint”). An outline of the Complaint is set out below.

The complaint will be investigated under Council’s Complaint Management Procedure.

#### **Outline of Complaint**

The Complaint raises the following concern(s) about your alleged conduct:

1. [STATE THE ALLEGATIONS]

Council has appointed [INVESTIGATOR] to undertake the investigation. The investigator would like to meet with you to discuss the matters raised in the Complaint and seek your response. You are also entitled to provide a written response should you wish.

The Investigator will contact you to organise a suitable interview time. You are entitled to bring a support person with you to the interview should you wish.

Overall responsibility for the determination of the Complaint rests with the Complaint Officer nominated below.

### **COMPLAINT SCHEDULE**

<b>Complaint Reference</b>	[Complaint Register Reference No]
<b>Complaint Officer(s)</b>	[Name] [Position]
<b>Contact Details</b>	Ph: [Telephone Numbers]
	Fax: [Fax No]
	Email: [Email addresses]
<b>Summary of Complaint</b>	[Brief summary of complaint]

## **Schedule – Prescribed Forms**

The investigation completion date is estimated at **[insert date] [45 days for a Privacy Complaint]**. Please note that this date is an estimate only and is subject to change without further reference to you.

The date may vary based on factors such as complexity of the allegations, availability of witnesses, public holidays, staff leave rosters, volume of evidence gathered and severity of alleged conduct.

The investigation will be conducted in accordance with the principles of natural justice.

When the investigation is finished, Council will provide you with an Outcome Notice. This Notice will contain the outcome of the investigation and provide reasons for the decision.

Council appreciates that being involved in an investigation is a difficult time for any person, and Council will make every attempt to finalise this matter in the most discrete and timely fashion. The Employee Assistance Program is also available for your support and we encourage you to access this service if required. To enquire about confidential counselling contact AccessEAP on 1800 81 87 28.

### **Confidentiality**

You are required to maintain confidentiality in respect of the issues discussed during the investigation process. You must not discuss this matter with any employee or other persons connected to the workplace with the exception of your support person. In particular this matter is not to be discussed with the complainants or any potential witnesses to maintain the integrity of any possible investigation that may need to take place.

If you have any specific queries in relation to the investigation, please contact the nominated Complaint Officer.

Should you require further information with respect to the above process, please do not hesitate to contact the Compliance Officer on (07) 4034 5700.

Yours faithfully

**[Name]**

**Chief Executive Officer**

## Schedule – Prescribed Forms



### TORRES STRAIT ISLAND REGIONAL COUNCIL

## Complaint Notification to Councillor

Your reference: [if any]

BY EMAIL and/or BY POST

Our reference: [ECM file No]

Email:

[Date]

[Respondent's Name]

[Address]

### **PRIVATE AND CONFIDENTIAL**

**COMPLAINT NOTIFICATION** – [insert Complaint Register reference number]

I wish to advise on behalf of the Torres Strait Island Regional Council (“Council”) that I am in receipt of a Complaint dated [DATED] about your conduct as Councillor for [DIVISION - INSERT], [INSERT] Island.

I have referred the Complaint to the Office of the Independent Assessor for assessment, as required under the *Local Government Act 2009*. When the assessment is finished, Council will contact you to advise of the outcome.

### **[FOR ALLEGED INAPPROPRIATE CONDUCT:]**

As you are aware, I referred the Complaint to the Office of the Independent Assessor. The Independent Assessor has assessed the Complaint as alleged inappropriate conduct.

- e) Council will now investigate the Complaint in accordance with the Investigation Policy. A copy of the Investigation Policy is **enclosed** for your information.
- f)
- g) [IF APPLICABLE:] I consider it appropriate for this matter to be referred to an external investigator/agent for assessment and, if appropriate, investigation.

### **[FOR ALLEGED MISCONDUCT:]**

As you are aware, I referred the Complaint to the Office of the Independent Assessor. The Independent Assessor has assessed the Complaint as alleged misconduct.

The Independent Assessor is responsible for assessing and investigating instances of suspected misconduct. The Independent Assessor may then refer the matter to the Councillor Conduct Tribunal to be heard and determined.

Council will advise further when it receives notice of the outcome of the investigation.

## Schedule – Prescribed Forms

### **[FOR ALLEGED CORRUPT CONDUCT:]**

I have undertaken a threshold assessment of the Complaint in accordance with Council's Complaint Management Procedure ("the Procedure") and find this matter to be assessed as alleged corrupt conduct.

Under the *Crime and Corruption Act 2001*, corrupt conduct allegations must be referred to the Crime and Corruption Commission ("the Commission").

### **[FOR ALL COMPLAINTS:]**

<b>Complaint Reference</b>	[INSERT]
<b>Complaint Officer</b>	[INSERT]
<b>Assistant Complaint Officer</b>	[INSERT]
<b>Summary of Complaint</b>	[INSERT SUMMARY OF ALLEGATIONS]
<b>Estimated Completion Date</b>	Subject to the timeframes of the external investigator/agent

The investigation will be conducted in accordance with the principles of natural justice.

I realise that this may be a difficult time for you. Council's Employee Assistance Program (EAP) is available to Councillors at all times. To enquire about confidential counselling, you are welcome to contact AccessEAP on 1800 81 87 28.

If you have any specific queries in relation to the investigation, please contact the nominated Complaint Officer.

Should you require further information with respect to the above process, please do not hesitate to contact the Compliance Officer on (07) 4034 5700.

Yours faithfully

**[Name]**

**Chief Executive Officer**

## Schedule – Prescribed Forms



## TORRES STRAIT ISLAND REGIONAL COUNCIL

### Complaint Decision Notice

Your reference: [if any]

BY EMAIL and/or BY POST

Our reference: [ECM file No]

Email:

[Date]

[Name]

[Address]

### **PRIVATE AND CONFIDENTIAL**

**COMPLAINT DECISION NOTICE** – [insert Complaint Register reference number]

We refer to your [Complaint Notification / Complaint] dated [insert date] about [insert] (“the Complaint”).

#### **[FOR CATEGORY A COMPLAINT:]**

Council has undertaken a thorough investigation into the circumstances surrounding the allegations in the Complaint. Council confirms that this matter has now been finalised by the relevant Executive Manager responsible for the employee the subject of the complaint.

Council is not at liberty to disclose the facts surrounding the investigation or its finding, pursuant to the *Information Privacy Act 2009*. Council can however advise you that it has taken appropriate action with the employee [agent, contractor, consultant, assign] to address future conduct of the kind referred in the complaint. Council has now closed this file.

#### **[FOR CATEGORY B, C, E COMPLAINT:]**

As you are aware, Council appointed an external investigator to undertake a thorough investigation into the circumstances surrounding the allegations of the Complaint. The investigation has now been completed.

The investigation found that:

- the allegation of [INSERT] was **substantiated / not substantiated**;
- [INSERT OTHER INVESTIGATION FINDINGS]

Following investigation, the Complaint Officer decided to:

- [INSERT OUTCOME DETAILS].

This decision took into account that [INSERT ANY RELEVANT FACTORS]. Council has now closed this file.

## Schedule – Prescribed Forms

### **[FOR A COUNCILLOR CONDUCT COMPLAINT:]**

[Note who investigated the Complaint.]

The investigation has now been completed.

The investigation found that:

- the allegation of [INSERT] was **substantiated / not substantiated**;
- [INSERT OTHER INVESTIGATION FINDINGS]

Following investigation, the Complaint Officer decided to:

- [INSERT OUTCOME DETAILS].

This decision took into account that [INSERT ANY RELEVANT FACTORS].

Council has now closed this file.

Section 150DX of the *Local Government Act 2009* requires Council to record the outcome of this matter on its website because it was not assessed as a public interest disclosure.

The outcome will be recorded as follows:

Date of complaint (for a dismissed complaint) / Date of decision (no further action)	Summary of complaint	Decision/reasons

### **[WHERE FURTHER PARTICULARS NOT PROVIDED:]**

I refer to Council's letter to you dated [INSERT DATE] which requested further information from you about the allegation of [INSERT DETAILS]. The deadline for providing further details was [INSERT DATE] and we did not receive any response from you.

Council was unable to investigate these allegations without further details being provided. On that basis, Council rejects the complaint for lack of merit and insufficient particulars.

### **[FOR ALL COMPLAINTS:]**

Should you require further information with respect to the above process (not the outcome), please do not hesitate to contact the Compliance Officer on (07) 4034 5700.

Yours faithfully

**[Name of Executive Officer]**

**[Title of Executive Officer]**