Statutory Policy

Policy Title: **Code of Competitive Neutrality Complaints**

Policy No: 115

Department: Executive Services
Responsible Officer: Chief Executive Officer

Adopted Date: Budget Meeting – 06/07/2016
Review Date: 01/08/2017

Version	Decision Number/Council meeting or CEO Approval	Decision Date	History
1	Budget Meeting	12/07/2011	New Policy
2	Budget Meeting	07/08/2012	Revised for 2012/2013
3	Budget Meeting	30/07/2013	Revised for 2013/2014
4	Budget Meeting	08/07/2014	Revised for 2014/2015
5	Budget Meeting	07/07/2015	Revised for 2015/2016
6	Budget Meeting	06/07/2016	Revised for 2016/2017

Authorities: *Local Government Act 2009 and the Local Government Regulation 2012*

INTRODUCTION:

The aim of this process is to provide, in accordance with Section 48 of the Local Government Act 2009, a means for resolving complaints by affected persons about failures of Council's local government business entities to carry out activities in a way that complies with the competitive neutrality principles applying to the activities.

1. Preliminary Procedures

The preliminary procedure for affected persons to raise concerns about alleged failure of business activities to comply with the relevant competitive neutrality principles, and for clarifying and, if possible, resolving those concerns is:

- Complainant advises Council verbally or in writing of their concerns. If the complaint is made verbally, it should be referred to the CEO if available or another senior officer and all relevant details obtained.
- Council will acknowledge receipt of the concerns in writing within fourteen (14) days and advise the person expressing the concerns that the Chief Executive Officer is investigating the matter;

- The Chief Executive Officer may refer the matter to a review officer of his/her choice or elect to personally undertake the function of the review officer;
- The CEO or review officer will seek to establish the facts relating to the concerns expressed by the person. Investigation of the matter may involve meeting with the person, collecting data, and holding further meetings;
- The CEO or review officer will develop a proposed response to the concerns and seek, within a reasonable time, the person's views on the proposed response;
- The CEO shall make a response to the person in writing.

2. Advice to Applicants of the Complaints Procedure

In the case where a person has expressed concerns that have not been resolved under the preliminary process and Council becomes aware that the person proposes to make a formal complaint about Council's business activities, Council will make the information in Appendix A available to the complainant to ensure that they are able to make the complaint.

3. How to Make a Complaint

In making a complaint, the following information should be provided in writing by the complainant and addressed to the CEO:

- Details of the complainant's name and contact details such as:
  a. Address
  b. Phone number/s
  c. Fax number/s
  d. Email address
- Details about the alleged failure of the business activity to comply with the relevant competitive neutrality principles;
- Details of how the complainant was adversely affected by the alleged non-compliance;
- Details as to whether the complainant is, or could be, in competition with the local government business entity; and
- A statement that the complainant has made a genuine attempt to resolve his/her concerns with the local government business entity using the preliminary procedures set up by Council. The complaint process under Division 7 Subdivision 2 sections 45 to 55 of the Local Government Regulation 2012 should be followed by Council.

4. Sending Complaints to and Investigation of Complaints by Referee

- Formal complaints received by Council are to be directed to the CEO and acknowledged in writing within five (5) working days;
- The CEO must refer the complaint to the Queensland Productivity Commission (QPC) within five (5) working days of receipt;
- Formal complaints are to be recorded, showing the date of referral of the complaint to the QPC and an outline of the complaint; and
- The relevant business activity or business unit is to be informed that a formal complaint has been received.

5. Recording System

The record system will record the following information in regard to complaints made about the competitive neutrality of Council's business activities:

- Details of the complaint process established;
- Where persons express concerns about the operations of Council's business activity, the concerns and the outcome of the preliminary procedures are to be recorded;
- Where persons have made a complaint to Council, details of the complaint are to be recorded;
- Details of when the complaint was sent to the QPC for investigation;
- Where a person has made a complaint to Council, and the QPC has determined not to investigate the complaint, the notification issued by the referee under section 48 of the Local Government Regulation 2012 is to be recorded;
- Where a person has made a complaint to Council, and the QPC has determined to investigate the complaint, the investigation notice issued by the QPC under section 49 of the Local Government Regulation 2012 is to be recorded;
- Handling of QPC records (eg. data from finished investigations) is to be done in accordance with sections 52 and 53 of the Local Government Regulation 2012;
- Where the QPC has issued a report on the complaint under section 52 of the Local Government Regulation 2012, the receipt of the report and any recommendations contained in the report are to be recorded;
- Where Council has made a decision on a report by the referee, the resolution incorporating the decision, the date of the resolution and any directions to implement the decision that are given to a business activity under section 55 of the Local Government Regulation 2012 are to be recorded;
- Where Council has advised relevant persons of its decision, the notification issued by the local government under section 55 of the Local Government Regulation 2012 is to be recorded.

6. Opportunities for the Complainant to Provide Further Information to the QPC

If, after the initial complaint is made, the complainant wishes to provide further relevant information to the QPC, they may do so. The QPC may request further information from a complainant at any time during the investigation period.

7. Reporting Period for QPC

The referee must provide the report to Council in accordance with the Local Government Regulation 2012.

APPENDIX A

INFORMATION ON HOW TO MAKE A COMPLAINT ABOUT COMPETITIVE NEUTRALITY OF A LOCAL GOVERNMENT BUSINESS ACTIVITY

WHERE TO CONTACT COUNCIL

The Chief Executive Officer
North Burnett Regional Council
34-36 Capper Street
PO Box 390
GAYNDAH, Qld. 4625

Phone: 1300 696 272
Fax: (07) 4161 1425
Email**: admin@northburnett.qld.gov.au**

HOW TO MAKE A COMPLAINT

Requirements for complaint.
A complaint must:

- Be addressed to the Chief Executive Officer;
- Be in writing;
- Provide sufficient detail about the alleged failure of the business activity to comply with the relevant competitive neutrality principles;
- State how an complainant was adversely affected by the alleged non-compliance;
- State whether the complainant was, or could be, in competition with Council's business entity and
- Indicate how the complainant has made a genuine attempt to resolve his/her concerns with Council's business entity using the preliminary procedures set up by Council under Section 48 Local Government Act 2009

Who can complain?
A complaint can only be made by a person who:

- Currently is competing with the activity alleged to have a competitive advantage or
- Is hindered from competing by the alleged competitive advantage of Council's business activity under Section 48 Local Government Act 2009.

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.

Grounds for complaint.
A complaint must be on the grounds that a Council business entity has failed to carry on its business activity in compliance with the competitive neutrality principles applying to that activity under Section 47 Local Government Act 2009.