

COMPETITIVE NEUTRALITY COMPLAINTS

APPROVALS

POLICY NUMBER	CORP-POL-127	DOC.ID	4820281
CATEGORY	Statutory		
POLICY OWNER	Manager Financial Services		
APPROVAL DATE	25 August 2021	RESOLUTION NUMBER	7459

OBJECTIVE

To provide a process for resolving competitive neutrality complaints in accordance with provisions of the *Local Government Act 2009* and *Local Government Regulation 2012*.

To ensure IRC business activities are accountable and transparent for financing, pricing and other business decisions, as well as identifying the true cost of service provision to the community.,

SCOPE

The procedure applies to complaints regarding business activities undertaken by IRC where someone has claimed to be adversely affected by a competitive advantage allegedly enjoyed by IRC.

An affected person must:

- compete with IRC in relation to the business activity and claim to be adversely affected by a competitive advantage that is allegedly enjoyed by IRC; or
- want to compete with IRC in relation to the business activity and claim to be hindered from doing so by a competitive advantage that is allegedly enjoyed by IRC.

Complaints about other IRC related matters are dealt with under the Administrative Action Complaints policy.

DEFINITIONS

TERM / ACRONYM

MEANING

Business Activity	Business activity of local government means trading in goods and services by the local government.
Competitive Neutrality	Defined in the Local Government Act 2009 as a principle that an entity which 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.
Competitive Neutrality Complaint	Is a complaint that: <ol style="list-style-type: none"> Relates to failure of a local government to conduct a business activity in accordance with the competitive neutrality principle. Is made by an affected person.
IRC	Isaac Regional Council.
NCP	National Competition Policy.
QCA	Queensland Competition Authority.

POLICY STATEMENT

IRC supports the principles of competitive neutrality by ensuring that IRC business operates without any net competitive advantages over other businesses as a result of the public ownership.

Where IRC competes in the marketplace it will always do so on the basis that it does not use its public position to gain an unfair advantage over a private sector competitor.

POLICY

IRC will receive and deal with any competitive neutrality complaints quickly and in accordance with policy guidelines.

Relevant information will be provided to a complainant to facilitate a complete understanding of competition policy. The operation of a IRC business activity will be investigated and reviewed if a legitimate complaint is made, in accordance with the IRC complaints process.

A change will be made to a IRC business practice if a complaint is substantiated.

PROCEDURE

Early Resolution

Anyone considering making a competitive neutrality complaint is encouraged to meet with IRC representatives to allow the person to explain their concerns and enable IRC to clarify and, if possible, resolve the matter before the complainant makes a formal complaint to the Queensland Competition Authority (QCA).

Facilitating the Complaint

Council will appoint a review officer or officers as per this Policy and/or under the power delegated to the Chief Executive Officer to appoint review officer/s.

- Acknowledge the receipt of the concerns in writing
- The review officer will establish the facts related to the concerns expressed by the complainant. Investigation of the matter may involve meeting with the complainant, collecting data and holding further meetings.
- The review officer will develop a proposed response to the concerns and within a reasonable time seek the complainant's views on the proposed response.
- The Chief Executive Officer shall make the response or shall direct the review officer to make a response to the complainant.

The review officer will document and record the complaint and the resulting decision and recommendation. IRC will assist any person wanting to make a complaint by providing them with information about the steps that must be taken, including the need for the complainant to provide the following:

- details of the business activity's alleged failure to comply with the competitive neutrality principle;

- information that shows the person is or may be in competition with IRC's business entity;
- information that shows how the person is or may be adversely affected by the business entity's alleged failure; and
- information that shows that the person has made a genuine attempt to resolve the complaint directly with IRC.

Making a Complaint

Complaints must be made in writing and can be addressed to either:

- the Chief Executive Officer - by post or email to records@isaac.qld.gov.au; or
- CEO Queensland Competition Authority, GPO Box 2257, Brisbane QLD 4001.

Complaints must contain details of the alleged breach of competitive neutrality, as well as details of the attempt to resolve the complaint with IRC. Any complaints addressed to IRC will be referred to the QCA as soon as practicable.

Publication of QCA Reports

If the QCA provides a report to IRC about an investigation into a competitive neutrality complaint, a copy of the report will be made available for public inspection at IRC's administration centre as soon as practicable.

Consideration of QCA Reports

IRC will consider any report provided by the QCA within 30 days of receiving it and will decide by resolution at the following IRC meeting whether to implement the authority's recommendation, stating the reasons for the decision.

Within 7 days of making the resolution, IRC will give notice of its decision to the complainant and the QCA.

Register of Business Activities

IRC maintains a register of its business activities. The register includes:

- the business activities to which the competitive neutrality principle has been applied and the date it was applied;
- the business activities to which the code of competitive conduct applies and the date the code was applied; and
- a list of current investigative notices for competitive neutrality complaints and the business activities to which they relate, and IRC's responses to the recommendations made by the QCA in relation to the complaints.

RESPONSIBILITY

The Chief Executive Officer, Director Corporate, Governance & Financial Services, the Manager Financial Services and/or the Chief Executive Officer delegate are responsible for coordinating any internal investigation arising from a complaint.

The Manager Financial Services will maintain a register of complaints and report any relevant information/disclosures to the Queensland Competition Authority.

COUNCIL'S FULL COST PRICING MODEL

The full cost pricing model adopted by Council involves setting prices on a commercial basis. It is founded on the principle that the price charged or the provision of a good or service should recover sufficient revenue to cover the costs of production, the funds to replace assets as they are consumed, and the achievement of a reasonable rate of return.

Whilst a full cost pricing model has been utilised for the annual determination of cost recovery levels for Council's significant business activities, an appropriate long-term financial sustainability model will be maintained. This enables the identification of ongoing investment requirements, helping to inform capital funding decisions and borrowing programs, as well as assisting in the development of longer-term price paths and revenue strategies for the business and compliance with the full cost pricing principles, in accordance with legislative requirements.

ACKNOWLEDGEMENT

Bundaberg Regional Council, Queensland

LEGISLATIONS AND RELATED GUIDELINES

- *Local Government Act 2009*
- *Local Government Regulation 2012*