

**PROCEDURE TITLE:** COMPLAINTS MANAGEMENT PROCESS

**PROCEDURE NUMBER:** PRO-030

**ASSOCIATED POLICY:** COMPLAINTS MANAGEMENT

**ASSOCIATED POLICY NUMBER:** PECS-034

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**CLASSIFICATION:** Statutory

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Responsible Position		
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## 1. Purpose

The complaints process is required under the Local Government Act 2009 (the Act) and includes the elements required by section 268(4) of the Act to be included in Council's General Complaints process. Furthermore, under Directive 13/06 Complaints Management Systems, issued by the Public Service Commissioner Queensland, in November 2006, the Complaints Management System must include policies and/or procedures.

## 2. Scope

The complaints process has been established for resolving complaints by affected persons about administrative action of the Isaac Regional Council (IRC) or an alleged minor breach by a Councillor of the Councillors Code of Conduct. However, the complaints process does not apply to a complaint:

- That could be made under s.48 of the Act about competitive neutrality issues
- About official misconduct that should be directed to the Crime and Corruption Commission
- Made under the Public Interest Disclosure (PID) Act 2010
- About a meeting breach, a repeat breach or a statutory breach under the Councillors Code of Conduct

## Objectives

The complaints process is established with the following objectives:

- Fair and Objective: All complaints are considered on their merits and IRC is consistent in the treatment of complaints about decisions and other administrative actions of the IRC and complaints about minor breaches
- Easy and Accessible: The complaints process is available on IRC's website and upon request, is easy to understand, and assistance will be provided to people with language and communication difficulties
- Continuous Improvement: IRC recognises that complaints provide an opportunity to identify areas of improvement in IRC's administrative practices while also increasing the awareness of the complaints process for IRC staff and the community. This will help build the capacity of staff to effectively manage complaints in an environment of continuous improvement
- Confidential: Complaints are handled in accordance with the Information Privacy Act 2009 and IRC's information management policies
- Transparent and Accountable: The reasons for decisions and outcomes are made available to the complainant, subject to statutory provisions, along with advice of other avenues of review, thereby enhancing the community's confidence in the complaints process
- Effective and Efficient: The complaints process addresses the specific issues raised by the affected person and results in the correct outcome and appropriate redress. IRC will respond to complaints promptly, professionally and efficiently, with training being provided to the appropriate officers

## Procedure Commitment

IRC intends to provide a level of customer service (see the attached IRC's Customer Charter) to minimise complaints, but acknowledges the rights of persons to provide feedback, both positive and negative, on its services and/or to lodge a complaint about a decision or other action it takes.

The complaint process has been instituted to ensure that, to the greatest practical extent, any complaint is dealt with fairly, promptly, professionally, in confidence (subject to any legal requirements) and in a manner respectful to the complainant.

IRC commits to providing adequate resources and trained officers to deal with complaints and to record and analyse complaints data.

To this end, IRC will endeavour to ensure that:

- Anyone who is dissatisfied about a decision or other action of IRC, a IRC officer or a Councillor, can easily lodge a complaint
- Complainants:
  - Are provided with information on the complaints process and, if necessary, assistance to make their complaint
  - Are responded to quickly as possible and in accordance with the timeframes set out in the complaints process
  - Will not suffer any reprisal from IRC or its officers for making a complaint
- Complaints are:
  - Assessed in terms of its seriousness, safety implications, complexity and degree of urgency
  - Properly monitored with a view to continuous improvement of IRC's business process
- IRC officers will receive complaints in a professional manner and welcome valid feedback as an opportunity for improvement of IRC's administrative practices

If a complainant is not satisfied that a complaint has been satisfactorily resolved, he/she will be informed of any statutory right of review and, if they request, be provided with details of any further review mechanism that is available.

### 3. Definitions

Term	Meaning
Administrative Action	An action of IRC about a matter of administration, including each of the following: (i) a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision (ii) an act, or a failure to do an act (iii) the formulation of a proposal or intention (iv) the making of a recommendation; and is made by an affected person
Affected Person	A person who is apparently directly affected by an administrative action of a local government

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Term	Meaning
CEO	Chief Executive Officer
Complainant	Affected person or organisation making a complaint
Complaint	An expression of dissatisfaction by a person regarding:
Complaints	The statutory complaints process described in section 268 of the Act
IRC	Isaac Regional Council
Director	IRC Director who is generally responsible for various functions of the
Minor Breach	A minor breach by a Councillor of the Councillors Code of Conduct
Request for Service	A request for IRC to take action to satisfy the needs of a customer or ratepayer. This may be of a physical nature, such as a request to fill a pothole or to collect a stray dog, or a request for information
Senior Executive	CEO, Directors and all Managers
The Act	Local Government Act 2009

## 4. Provisions

### 4.1 Framework

The framework outlined in Appendix 2 describes the model adopted by IRC for handling complaints.

### 4.2 Preliminary Procedures

#### Preliminary Procedures Before a Complainant Can Make a Complaint

This section applies if a person makes a complaint about an administrative action of IRC or a minor breach.

When a person makes a complaint without having contacted the relevant section of IRC (or the Councillor in question in relation to a minor breach) to try to resolve the complaint, the person may be required to take the initial step before the complaint will be registered and dealt with under the complaints process.

If the complaint is not resolved by the relevant section or with the relevant Councillor, the complaint will be dealt with in accordance with the complaints process.

Compliance with this section is not a pre-requisite to the submission of a formal written complaint under the complaints process where it is clear on the face of the document that a complaint has been made. In those circumstances the complaint will be dealt with under the complaints process, unless it is earlier resolved to the complainants satisfaction or is withdrawn by the complainant.

#### Methods of Making a Complaint

A complainant may make a complaint in any of the following ways:

- Telephone: 1300 472 227 (8.30am to 5.00pm Monday to Friday)
- Post: PO Box 97, MORANBAH QLD 4744
- Email: [records@isaac.qld.gov.au](mailto:records@isaac.qld.gov.au)

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- Online: [www.isaac.qld.gov.au](http://www.isaac.qld.gov.au)

All written and electronic complaints must be addressed to the CEO. The complainant's name and contact details must be identified so IRC can contact the complainant as required by the Act.

If an oral complaint is received the CEO, or delegate, may request that the complaint be put in writing if it is of a complex nature or contains complex material.

The IRC officer who receives an oral complaint must record details in the Complaints Recording System and, if the complaint is not resolved to the complainant's satisfaction, refer the complainant for action under the complaints process.

All written complaints will be referred to the CEO, or delegate, who will arrange for the complaint details to be recorded in the Complaints Recording System.

If necessary, assistance may be provided by an IRC officer to a complainant on how to make a complaint, including how it should be documented. The aim is to clarify the matter of concern to the complainant and the outcome/s sought.

If a complainant requires interpreter services, or has special needs, the complainant will be referred to the appropriate IRC officer who will provide advice or arrange to provide assistance, to the extent practicable.

## Complaints by Agents

If a complaint is lodged on behalf of a person by a professional advisor, (solicitor or accountant) IRC will respond directly to that advisor.

If a complaint is lodged by a person as agent for an affected person, IRC will respond directly to the affected person, not the agent, unless a letter of authority is provided indicating the agent is acting on behalf of the affected person and IRC considers that the appointment as agent has validity.

## 4.3 Complaints Process

### Process Selecting and Appointing Complaints Officer to Investigate

IRC by resolution may:

- Select and appoint the CEO as a complaints officer for the internal review of any complaint, subject to section 257 of the Act
- Delegate to the CEO the power to select and appoint a person or persons to be a complaints officer to investigate complaints

The CEO may delegate his/her powers to another employee of IRC under section 259 of the Act. The investigation is to be undertaken either by way of internal review or external review.

## Internal Review

Internal review of a complaint will be conducted where the administrative action in question was undertaken by IRC officer. The review will be conducted by the CEO, or an officer appointed by the CEO or the CEO's delegate, as the complaints officer for the complaint. The complaints officer must not be less senior than the officer who took the administrative action that is being reviewed.

## External Review

External review of a complaint will be conducted where the administrative action in question was taken by:

- IRC, or a committee of IRC, at a meeting
- The Mayor or the Chair of a standing committee acting under statutory or delegated authority
- The CEO
- An IRC officer and the requirement that an internal review be conducted by a IRC officer who is less senior than the officer who took the administrative action cannot be met (for whatever reason)

External review will also be conducted for a complaint about a minor breach.

## Appointment of reviewer

The CEO, or delegate, will:

- Assess the nature of the complaint and determine whether the complaint is to be investigated by means of internal or external review
- Based on the review criteria, appoint a suitable person as the complaints officer for the complaint from a panel established by the CEO (for internal reviews) or IRC (for external reviews) for that purpose
- Give the person appointed as the complaints officer an instrument of appointment that also stipulates the date by which the complaints officer must complete the report on the investigation if the complaint is not earlier resolved to the complainant's satisfaction or is withdrawn by the complainant

The person appointed as a complaints officer for a complaint must have the:

- Appropriate knowledge, qualifications, skills and experience, including:
  - Relevant investigative, analytical and report-writing skills, to conduct an investigation into the complaint, make findings, formulate recommendations (where appropriate)
  - Ability to prepare a report on the outcome of the investigation for consideration by IRC or its delegate.

The complaints officer appointed to investigate a complaint by way of internal or external review must not have been involved with the administrative action or alleged minor breach in question.

## **Sending Complaints to, Investigation by, the Complaints Officer**

The CEO, or officer authorised by the CEO, after the oral or written complaint has been recorded, will arrange for the complaint and other materials, including relevant documents from IRC records, to be forwarded to the complaints officer for assessment of the complaint as soon as practicable after the officer's appointment.

The request to investigate the complaint must indicate the timeframes for dealing with the complaint.

The timeframes for dealing with a complaint will depend on an assessment of the following factors by the CEO or authorised officer:

- The urgency of the situation in terms of loss or damage likely to be suffered if the complaint is not quickly resolved
- The likelihood that the complaint can be quickly resolved
- The complexity of the complaint issue/s
- Whether the complaint requires internal review or external review in accordance with the criteria for the selection of a complaints officer for the complaint as set out in the complaints process

In general terms IRC will endeavour to meet the following timeframes for dealing with a complaint for:

- Urgent matters, within fifteen (15) working days
- Non-urgent complaints that are not considered to be complex or where the complaint is to be investigated under the internal review mechanism, within thirty (30) working days
- Complex complaints or where the complaint is to be investigated under the external review mechanism, within forty five (45) working days

If the nominated timeframes for dealing with a complaint cannot be met for any reason, the CEO or delegate may, once only, extend the time for dealing with the complaint and notify the complainant in writing of the extension before the expiry of the initial timeframe. In determining any extension of time, the CEO, or delegate, must consult with the complaints officer to fix a date that is reasonable in all the circumstances, but in no case more than (3) months from the date the complaint was received by IRC.

The complaints officer will acknowledge receipt of the complaint and any other material, indicating the date of receipt.

If a complaint is resolved to the complainant's satisfaction before it is sent to a complaints officer for investigation, written notice that the complaint has been resolved will still be given to the complainant.

As a condition of appointment, an external reviewer is required, when forwarding his/her investigation report to the CEO, to return all records and documents relating to the investigation.

The timeframes for dealing with a complaint is measured from the date of receipt of a complaint to the date the complainant is informed of the outcome of the complaint.

## Opportunity for Complainant to Provide Further Information about the Complaint

The complaints officer will invite the complainant to provide further information after the initial assessment of the complaints material to assist in fully understanding the complainant's concerns, the issue/s to be investigated (if an investigation is to be undertaken) and the outcome or remedy sought by the complainant.

Seeking further information from the complainant at this stage of the complaints process may be undertaken by informal means such as telephone, e-mail or face-to-face discussion. The complaints officer will record a fair summary of any oral information received and have the complainant sign the summary document to indicate that it accurately reflects the information provided by the complainant.

The complaints officer will attempt to resolve the complaint informally, for example, by providing an explanation for IRC or the Councillor's action in the particular case. A complaint may be resolved or withdrawn by the complainant at any time during the complaints process. A complaint is taken to be resolved to the complainant's satisfaction, or is taken to be withdrawn, only if the complainant gives written indication to that effect to the complaints officer. Written notice that the complaint has been resolved, and the general manner in which it was resolved, will be given to both IRC and the complainant.

If, in the opinion of the complaints officer, a resolution of a complaint about an administrative action merely involves rectification of an obvious error or a remedy of a similar nature, the complaints officer will discuss the issue with the relevant IRC officer with a view to resolving the complaint.

## Grounds for Refusal to Investigate Complaint

In assessing a complaint (including any further information provided by the complainant) the complaints officer will consider whether there is a statutory ground on which the complaint may be refused. The complaints officer may refuse to investigate a complaint or, having started to investigate a complaint, refuse to continue the investigation if the officer reasonably considers that the:

- Complaint is trivial
- Complaint concerns a frivolous matter or was made vexatiously
- Complainant does not have a sufficient direct interest in the administrative action or alleged minor breach the subject of the complaint

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- Both of the following apply:
  - The complainant has a right of appeal, reference or review, or another remedy, that the person has not exhausted
  - It would be reasonable in the circumstances to require the complainant to exhaust the right or remedy before the officer investigates, or continues to investigate, the complaint
- Circumstances with investigating the complaint is unnecessary or unjustifiable

A right or remedy does not include a right to make an application to the Supreme Court under the Judicial Review Act 1991.

The complaints officer will give both IRC and the complainant written notice of a decision made by the officer to refuse to investigate the complaint, or to continue the investigation, and the reasons for the decision.

## Investigating a Complaint

The investigation of a complaint will be undertaken by the complaints officer in an independent, impartial and objective manner. A complaints officer may, if the officer considers appropriate in the circumstances, undertake mediation between the parties with a view to resolving a complaint, but will not act as an advocate for either the complainant or IRC or for any council officer or Councillor the subject of the complaint.

The investigation of a complaint will typically involve the following stages:

- Preparation of an action plan for conducting the investigation;
- Information gathering, including discussions and interviews with the complainant, IRC personnel and third parties (where relevant) and examining relevant laws and IRC policies and procedures
- Analysis of all relevant information obtained
- Formulation of a report including findings and any recommendations for IRC consideration
- Preparation of a report on the results of the investigation or the outcome of the complaint if it was resolved during the complaints process or was withdrawn by the complainant

The complaints officer will adhere to the following principles when conducting an investigation of a complaint:

- Procedural fairness/natural justice
- Establishment and maintenance of a complete document trail (to facilitate any subsequent review that may be undertaken of the investigation conducted by the complaints officer)
- IRC and other policies are designed for administrative guidance only, and should not be rigidly applied irrespective of the merits of a particular case. An administrative policy may be departed from if the merits of a particular case warrant that course of action

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- Lawfulness of a particular action is not necessarily decisive of the issue in dispute. The complaints officer will also assess whether the action was unfair, unreasonable or wrong
- The civil standard of proof applies for administrative investigations. This means that allegations have to be established on the balance of probabilities, that is, it must be more probable than not that the allegation is made out
- Confidentiality about the investigation must be maintained to the extent that it can be reasonably achieved, subject to other legal requirements about the disclosure of information

## Obligation of Complaints Officer on Completion of Investigation

If a complaint is not resolved during the investigation process to the satisfaction of the complainant or is withdrawn by the complainant, the complaints officer will give IRC and the complainant a written report on the results of the investigation and any recommendations. The complaints officer must give the report to both IRC and the complainant within the time stipulated in the instrument of appointment, subject to any approved extension of time.

The report will typically address the following matters to the extent each matter is relevant in the particular case:

- The complaint issue/s
- A concise summary of the material facts and circumstances of the matter
- Any relevant legislation
- Any relevant IRC or other policy
- Persons interviewed and/or consulted and relevant information obtained during any interviews and consultations
- Results of any relevant research
- Analysis of complaint issues to the extent necessary
- Findings on material questions of fact and law
- Whether the complaint is sustained and reasons for that finding
- If the complaint is sustained, any recommendation/s to IRC to redress the complainant's grievance, whether by way of benefit to the complainant and other affected persons (if any) and/or systemic improvements to IRC administrative practice with a view to preventing a recurrence of similar complaints.

The report will contain any recommendations that the complaints officer considers to be appropriate in the circumstances. In some cases, it will be appropriate to make a recommendation for procedural improvements even where the complaint has not been sustained. A recommendation may relate to:

- A specific remedy or remedies that is/are available under section 268 of the Act

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- to redress the complainant's grievance
- The proposed amendment of a relevant IRC policy, procedure or practice to address any systemic issue raised by the complaint with a view to preventing similar complaints in the future

## Remedies

IRC has adopted a range of remedies for addressing administrative actions that it considers to be unfair and wrong. Remedies include, but are not limited to:

- An explanation for the action in question
- An admission of fault
- An apology
- Revocation or amendment of the decision
- Rectification, including repairing, replacing the matter in dispute
- Revision of relevant policy, procedure or practice
- Provision of technical assistance
- Reimbursement of costs incurred as a result of the action in question
- Financial compensation, including an *ex-gratia* payment
- Waiver of debt

More than one remedy may be applied in the particular case if the circumstances justify that course of action.

One or more of the above remedies may also be applicable where IRC decides that a Councillor has committed a minor breach, in addition to any penalty imposed by the IRC by resolution under section 177 of the Act.

## Report about an Administrative Action

A complaints officer's report prepared under section 268 of the Act of the complaints process, including any recommendation(s), on a complaint about an administrative action will be considered by:

- IRC by resolution if the administrative action in question was taken by:
  - IRC, or a committee of IRC, at a meeting
  - The Mayor or the Chair of a standing committee acting under statutory or delegated authority
  - The CEO
  - Another IRC officer where the requirement that the complaints officer be no less senior than the officer who took the administrative action, cannot be met
- The CEO under delegated authority if the administrative action in question was taken by a senior officer who reports directly to the CEO
- Another IRC officer under delegated authority if the administrative action in question was taken by a IRC officer who is not more senior than the delegate

A IRC officer exercising delegated authority to deal with the complaint, by accepting or rejecting the findings of the complaints officer, has authority to provide any lawful

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remedy for the complainant that is available under section 268 of the Act (excluding remedies 8, 9 and 10), irrespective of whether the remedy has been recommended by the complaints officer. The appropriateness of remedies 8, 9, and 10 will be confirmed by IRC resolution.

Where the complaints officers' report includes a recommendation that a suitable policy is made to address the complaint issue, or an existing policy be appropriately amended, the recommendation will be referred to the IRC for consideration by resolution.

## Report about a Minor Breach

If the complaints officer who investigated a complaint about a minor breach gives a report to the local government stating that the complaint has not been resolved through the complaints process, the report will be dealt with by IRC by resolution under section 177 of the Act.

When IRC considers a report, it must:

- Decide by resolution under section 177 of the Act to take no further action in relation to the complaint if satisfied the complaint concerns a frivolous matter or was made vexatiously
- Have regard to the complaints officers' report about the matter, decide whether the Councillor in question has committed the alleged minor breach.

In deciding whether the Councillor has committed a minor breach, IRC must comply with the principles of natural justice and, at the least, afford the Councillor an opportunity to make a submission on whether the breach was committed. If IRC decides the Councillor committed the minor breach it must then give the Councillor an opportunity to make a further submission on whether a penalty should be imposed and the nature of the penalty, being one of the actions that may be taken under section 177 of the Act, namely:

- Take no further action in respect of the breach
- By resolution, impose a penalty on the Councillor under section 177 of the Act
- If it considered the breach may be a repeat breach of the Councillors Code of Conduct, refer a complaint about a repeat breach to its conduct review panel for review

If IRC is of the view that a complaint about a minor breach was frivolous or made vexatiously, it may give notice to the complainant under section 177 of the Act that if the complainant makes the same (or substantially the same) complaint, he/she commits an offence for which the maximum penalty is 10 penalty units.

## Notice to Complainant about Outcome of Complaint

Written notice of the outcome of a complaint will be given to the complainant following IRC consideration of, and decision on, the complaints officer's report and recommendations (if any).

The notice to the complainant will generally include the following advice:

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- Whether the complaint is sustained
- If the complaint is not sustained, the reason for the decision
- If the complaint is sustained:
  - Any remedy to be made available to the complainant
  - If applicable, the circumstances and timeframe in which the remedy will be made available
  - Whether the investigation identified the need to revise IRC policy, procedure or practice to prevent similar complaints arising, details of the proposed revision and the timeframe for implementation

## Implementation of Remedy

IRC, through the CEO or delegate, will take action in a timely manner to implement any remedy to be made available to a complainant and/or any revision of its policy, procedure or practice.

## IRC Review if Complainant Dissatisfied with Outcome of Complaint

If a complainant is dissatisfied with the outcome of the consideration of the complaints officer's report and any recommendations, the complainant may request in writing a review of the decision on the complaint. The complainant may submit new information with the request for review and seek reconsideration of the complaint on the basis of the new information or on any other basis.

IRC will:

- Undertake the review as requested and advise the complainant accordingly
- Decline the review on the basis that the complainant has not provided any reasonable basis for the review

Any review undertaken will generally be in accordance with the complaints process. The reviewer will be independent of the original decision maker and the complaints officer.

## 4.4 Review by Ombudsman or Other Complaints

### Entities

#### Review by Other Complaints Entities

If IRC decides not to undertake a review, it will inform the complainant that a complaint may be lodged with the Queensland Ombudsman or other relevant complaint entity (giving contact details). The Ombudsman is an independent officer of the Queensland Parliament and cannot be directed by the Government or any person or entity about how to investigate your complaint. The Ombudsman's role is to impartially investigate complaints made about the decisions of the State's public agencies to ensure those decisions are lawful, fair, reasonable and correct. ([www.ombudsman.qld.gov.au](http://www.ombudsman.qld.gov.au))

## Reporting on Complaint Trends

Every six (6) months, commencing from the date the complaints process commenced, the CEO, or delegate, will complete a report on all complaints (oral and written) received

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through the complaints process, being complaints about administrative actions of IRC and complaints about alleged minor breaches of the Councillors Code of Conduct.

The report will include details for the particular six (6) months and the financial year to date and, to the extent details are available, draw comparisons with corresponding periods for the two (2) immediate preceding financial years.

Each report will set out:

- Details of complaints received and resolved during the period
- Whether timeframes were met
- How each complaint was dealt with (pre-complaint stage, by complaints officer, IRC decision on complaints officer's report, or still not resolved to complainant's satisfaction)
- A brief description of the outcome, including any remedy given to a complainant
- Details of any service delivery or business improvements that have been effected as an outcome of IRC consideration of complaints

The report will also:

- Contain details of any systemic issues that have been identified and/or whether there is any trend in the complaints received
- Suggest whether any other action should be taken to change service delivery and/or improve business activities, services, systems and staff skills

The CEO will discuss the report with the senior executive staff and will thereafter submit it to IRC for consideration, together with any comments from the senior executive staff.

Particular information relating to the complaints management process will be provided in IRC annual report, as required under section 187 of the Local Government (Finance, Plans, and Reporting) Regulations 2012.

## 4.5 Responsibility

### Senior Executive Staff

The senior executive staff will:

- Encourage excellence in customer service by IRC officers
- Ensure that all IRC officers are aware of and implement the complaints process in the manner intended by the IRC
- Foster an environment where complaints management is the responsibility of all IRC officers
- Ensure any necessary training is provided, on the complaints process, conducting an investigation of a complaint, conflict management and customer service skills

## Supervisors

Each supervisor will ensure that:

- All IRC officers under the supervisor's management and control are aware of their role in customer service and responsibility for complaint management
- Service standards are met

## IRC Officers

All IRC officers:

- Are required to observe the complaints process
- Wherever appropriate, attempt to resolve a complaint before it is referred for attention under the complaint process

## Evaluation and Review of the Complaints Process

IRC will conduct an annual review audit of the complaints process.

The review audit will evaluate the performance of the complaints process and will consider the following aspects, where necessary:

- Accessibility: whether the complaints process is readily available to members of the community and is user-friendly
- Timeliness: whether timelines for responding to complaints have been met and, if not, remedial action proposed
- Satisfaction: as evidenced by any complaint about the complaints process
- Compliance: by considering reports on the operation of the complaints process

The complaints process will be amended in terms of any adopted recommendation arising from the review.

## 5. Communication Channels

This procedure will be communicated throughout IRC via:

- An announcement on the IRIS intranet
- Online procedure Library

## 6. References and Related Documents

- Directive 13/06 Complaints Management Systems, issued by the Public Service Commissioner, Queensland, in November 2006
- Information Privacy Act 2009
- International and Australian Standard AS ISO 10002 – 2006
- Local Government (Finance, Plans and Reporting) Regulations 2012
- Local Government Act (LGA) 2009
- Local Government Operations Regulation 2010
- The Ombudsman's Office
  - Complaints Management fact sheets
  - Developing Effective Complaints Management policy and procedures

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