



COMPLAINTS POLICY & PROCEDURES

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1. PURPOSE

The objectives of this policy and procedures are to:-

- Ensure complaints are received and recorded and resolved in an appropriate manner
- Deal with complaints in a fair and equitable manner
- Use complaints as a means to improve Council's service quality, policies and procedures
- Demonstrate Council's commitment to dealing with complaints in a positive manner
- Deal with complaints in a timely manner

2. STATEMENT

2.1. Scope

This Policy and Procedures does not include complaints made under the Protected Disclosures Act.

This Policy and Procedures is to cover complaints made by the public in areas such as:-

2.1.1. Actions of Staff and Councillors

A complaint concerning a member of staff or councillor received from a member of the public will generally fall into the following categories -

- Personal offence to a person
- Failure to perform satisfactorily
- Corrupt conduct or failure to declare pecuniary interest/conflict of interest
- Wrong or misleading advice
- Breach of the Code of Conduct.

2.1.2. Competitive Neutrality under the National Competition Policy

Competitive neutrality is based on the concept of the "level playing field" for all competitors in the market regardless of the business they operate. Council should operate without net competitive advantage over the businesses that might otherwise flow as a result of their public ownership.

A competitive neutrality complaint is:

- A complaint that Council has not met its requirements under the National Competition Policy.
- A complaint about Council's pricing and costing for its businesses, which are:-

Category 1 Businesses

- Shoalhaven Water
- Shoalhaven Sewer
- Holiday Haven Tourist Parks
- Shoalhaven Mechanical Services

Category 2 Businesses

- Shoalhaven Memorial Gardens

- Electrical Technology Services
- A complaint that Council has not established an effective complaints handling mechanism.
- A complaint that Council has not abided by the spirit of competitive neutrality in the conduct of its business activities.

A competitive neutrality complaint is not:

- A complaint regarding the level of service provided by a business activity (e.g. water quality inadequate, garbage bin not collected).
- A complaint regarding the cost of the service, unless it is that Council has not costed its service to take competitive neutrality into account.
- A complaint regarding the trade practices laws and their application to councils. Complaints which centre on the Trade Practices Act 1974 and related issues can be dealt with by the council but are not competitive neutrality complaints. They may also be referred to the Australian Competition and Consumer Commission.
- A complaint relating to the provision of not-for-profit community services that are not significant business activities.

2.1.3. **Service Delivery**

Complaints which fall into this category are generally those which relate to:-

- the quality of service provided by Council;
- the Council failing to act upon a request from the public;
- the policies and procedures adopted by Council.

A complaint about service delivery is one where there has been a previous opportunity to remedy the situation. An initial request for a service is not deemed a complaint.

Code of Conduct and Responding to Aggression from Non Employees Guidelines

This policy shall be read in conjunction with the Council's Code of Conduct and the Aggression from Non-Employees Guidelines. The Code of Conduct sets the standards of behaviour for staff and Councillors in dealing with the public and others.

2.2. Other Related Documents

This policy has been prepared generally in accordance with guidelines issued by the:-

- Local Government Department - *Practice Note 9*
- Local Government Department - *Guidelines on the Management of Competitive Neutrality Complaints*
- ICAC - *Practical Guide to Corruption Prevention*
- Ombudsman - *Good Conduct & Administrative Practices*

3. PROVISIONS

Shoalhaven City Council actively investigates and responds to complaints from the public. Complaints serve to highlight the level of satisfaction with Council's policies, procedures, charges, staff and the quality of service thus provide opportunities for improvement that may not otherwise come to Council's notice.

3.1. How to Lodge a Complaint

A complaint may be lodged in the following ways:-

- By letter
- In person
- By E-mail
- By telephone
- By Internet

Where a complaint is lodged verbally, full details should be provided to enable a thorough and fair investigation.

3.2. Where to Lodge a Complaint

A complaint can be lodged -

In person, at the offices of the Council, either at:

City Administrative Centre
Bridge Road,
Nowra

Southern District Office
Deering Street
Ulladulla

By telephone/Fax

Telephone (02) 4429 3111
Fax (02) 4422 1816

By E-mail

council@shoalhaven.nsw.gov.au

By letter

The General Manager
Shoalhaven City Council
P O Box 42
Nowra 2541

By Internet

www.shoalhaven.nsw.gov.au

Follow the instructions from the “Complaints, Comments & Compliments” link provided on Council’s Website Homepage.

3.3. When to Lodge a Complaint

A complaint may be lodged when an individual, group or organisation is dissatisfied with Council. That dissatisfaction may be as a result of work done or service provided, the actions of staff or a Councillor or as a result of a Council policy, procedure or practice.

3.4. Recording of Complaints

Where appropriate, complaints from the public shall be recorded in Council's Action Management System (CAMS) except those relating to members of staff and Councillors where privacy and confidentiality issue must be considered. Separate files are prepared for each staff/councillor complaint.

3.5. Acknowledgement of Complaints

All complaints shall be acknowledged within seven (7) days of receipt. Such acknowledgment to the complainant shall include as a minimum:-

- Advice of the estimated period that will be required to deal with the matter and for them to have a substantive reply.
- CAMS Number (where appropriate) and contact person.

Where a substantive reply is not provided within 28 days, further advice shall be given to the complainant (within the 28 day period) on when the matter is expected to be resolved.

3.6. Handling of Complaints

Refer to Section 4 – IMPLEMENTATION for information on Council's internal procedures for handling of complaints.

Depending on the nature of the complaint, minor variations to the procedures will apply to take account of various legislative requirements or practical application.

4. IMPLEMENTATION

4.1. Complaints Against Staff and Councillors

- a) Each complaint shall be recorded on a separate file relating to the individual(s) and these shall be maintained in a confidential filing system.
- b) Unless there are legal constraints, such as privacy, the councillor(s) or staff member(s) must be informed of the complaint and be given the opportunity to respond.
- c) All complaints will be dealt with confidentially.
- d) The cause of the complaint will be investigated and, where appropriate, changes will be made in procedures, processes or training.

4.1.1. Complaints Against Members of Staff

The attached flowchart (Appendix 1) shows the procedure for dealing with complaints against staff members. Complaints against members of staff will be referred to the Public Officer or, in some circumstances, the General Manager for investigation. Where a complaint against a staff member involves a possible breach of Council's Code of Conduct, outcome options for breach of the Code of Conduct include:-

- Disciplinary action, in accordance with staff disciplinary policy

- Reporting the matter to the Police
- Reporting the matter to the Department of Local Government, ICAC or the Ombudsman

4.1.2. Complaints Against the General Manager or Senior Staff

A complaint against the General Manager shall be referred to the Mayor for investigation and where the matter is considered to be a breach of the Code of Conduct, the Mayor shall report to the Conduct Committee. The Committee shall consider any appropriate action to be taken.

Any complaints against Group Directors shall be sent to the General Manager, who shall investigate and take appropriate action.

4.1.3. Complaints Against Councillors

The attached flowchart (Appendix 2) shows the procedure for dealing with complaints against councillors. A complaint against a councillor shall be referred to the General Manager for initial investigation. The General Manager in accordance with Part 12 of the Code of Conduct must determine to:

- Take no further action
- Resolve the complaint
- Refer the complaint to another body or person
- Refer the matter to the Conduct Review Committee

Council's Conduct Review Committee must decide whether the conduct reported to it comprises a breach of the Code of Conduct. The Conduct Review Committee/Reviewer will refer its findings, and the reasons for these findings, in writing to an independent person for review. The Conduct Review Committee/Reviewer will report its findings and the reasons for those findings, in writing to the council, the complainant and the person the subject of the complaint. The Conduct Review Committee /Reviewer may recommend that Council take any action it considers reasonable in the circumstances, only when it has completed its deliberations.

4.2. Competitive Neutrality Complaints

The attached flow chart (Appendix 3) outlines the procedure for dealing with competitive neutrality complaints.

- 4.2.1. All such complaints must be directed to the Public Officer, who will deal with competitive neutrality complaints in accordance with the Council's policy and procedures.
- 4.2.2. The National Competition Policy requires that the person responsible for handling such complaints should not be involved in the Council's business activity thus maintaining accountability, independency and probity.
- 4.2.3. If the matter cannot be resolved within the Council, the complainant, where required, will be referred to an external agency such as the Ombudsman or Department of Local Government.
- 4.2.4. Where a competitive neutrality complaint is lodged, investigated and deficiencies identified, Council will review such practices or deficiencies and remedy them as quickly as possible.

4.3. Complaints Against Service

- 4.3.1. Complaints falling into this category shall be referred to the relevant Group or Section within the organisation that shall deal with the matter in accordance with this policy.
- 4.3.2. Where such complaint has not been resolved, it shall be referred to the Public Officer for investigation.
- 4.3.3. If the complaint is still unresolved, the complainant will be advised of avenues of redress to the Ombudsman, Department of Local Government or the Independent Commission Against Corruption (ICAC) depending on the nature of the complaint.

4.4. Anonymous Complaints

Details of anonymous complaints should be recorded on a file note and referred to the Public Officer who will determine whether further investigation is warranted based on the merit, seriousness and nature of the complaint and the information provided.

5. REVIEW

This Policy and Procedures will be reviewed within one year of the election of every new Council, or earlier if circumstances change to warrant a review.

6. CUSTOMERS WITH VEXATIOUS COMPLAINTS OR DEMANDS THAT CANNOT BE SATISFIED

Customers with vexatious complaints or who make unreasonable demands upon Council that cannot be satisfied, include members of the public or groups who by correspondence, counter enquiries or telephone calls:

- do not accept that Council is unable to assist them,
- who make unreasonable demands upon Council
- persistently disagree with the action Council has taken in relation to their complaint or concern.

If in the opinion of the relevant Director, a customer cannot be satisfied – by this it means that all appropriate avenues of internal review or appeal have been exhausted and the customer continues to contact Council. In such situations the Director may contact the customer restating Council's position on the matter and advise that if the customer continues to contact Council regarding the matter we may determine:

- not to accept any further phone calls from the customer
- not to grant any further interviews
- require all further communication to be put in writing
- continue to receive, read and file correspondence but only acknowledge it

If the customer provides in the opinion of the Director, significant new information relating to their complaint or concern; or the customer raises new issues which warrants further investigation the customer shall be given one opportunity to make representations on that/those issue(s) only.

In respect of counter enquiries and telephone calls where the customer is clearly unsatisfied with the response or reverts to an argumentative position where the staff member is unable to address the matter at hand, the customer is to be referred as follows:

- To the most senior person available,
- To the professional staff member responsible for that work area,
- To the manager responsible for that work area, or
- If the matter cannot be resolved at that level, the person is to be encouraged to submit their dispute or issue in writing.

In the case of complaints or requests that are irrelevant in a Local Government context, lack intellectual substance or do not merit serious consideration of Council the correspondence is to be placed on file and no further action taken.

There are other circumstances where Council receives correspondence seeking information that is publicly available and is not a Local Government responsibility. In these cases, if the information sought is readily available, Council is to provide that information in the interest of customer services. In other cases an acknowledgement letter shall be provided advising that Council is unable to assist.

6.1. Customers Who Make Unreasonable Demands

Customers who make unreasonable demands include;

- demands placed on Council which are significant or unreasonable thus diverting Council's resources away from other functions,
- constantly raising the same issue with different staff, or
- creating inequitable allocation of resources from other customers.

Such demands may result from the amount of information requested, the nature or scale of services sought or the number of approaches seeking information, assistance or service on the same matter.

If in the opinion of the relevant Group Director, a customer is making unreasonable demands on Council the following actions are to be taken:

The Director is to write to the customer advising them of Council's concern and requesting that they limit and focus their requests and that if the customer continues to place unreasonable demands on the organisation Council may:

- not respond to any future correspondence and only take action where, in the opinion of the relevant Director the correspondence raises specific, substantial and serious issues; or
- only respond to a certain number of requests in a given period
- the customer shall be given one opportunity to make representations about Council's proposed course of action

The General Manager shall advise councillors of any correspondence issued in accordance with this clause. If the customer continues to make unreasonable demands upon Council after being advised of Council's proposed course of action, the General Manager may, after considering any representations from the customer, advise the customer that either or both of points i) – ii) above will now apply.

6.2. Vexatious Complaints

Vexatious complaints include complaints that provoke irritation or anxiety and can be frivolous. Such requests will lack intellectual substance and generally will not merit serious consideration or proceedings being undertaken as the complaint is likely to have been generated to cause annoyance. These complaints can take the form of information requested or the nature or scale of the services sought.

If it is the opinion of the responsible Manager in conjunction with the Group Director that the complaint is one of a vexatious nature Council will take no further action on the correspondence.

In such a situation the person;

- shall be advised in writing that Council will not enter into any further correspondence on the issues contained in the correspondence, and
- explain the reasons why the matter is considered vexatious.

6.3. Rude, Abusive Or Aggressive Customers

In all the above situations, customers may become rude, abusive or display aggressive behaviour. This may include rude or otherwise vulgar noises, expressions or gestures, verbal abuse of either a personal or general nature, threatening or offensive behaviour, physical violence against property or physical violence against a person. This is not considered to be classified under complaints or demands.

If in the opinion of any staff member rude, abusive or aggressive comments or statements are made in telephone conversations or interviews, the staff member is to:

- a) warn the caller that if the behaviour continues the conversation or interview will be terminated
- b) terminate the conversation or interview if the rude, abusive or aggressive behaviour continues after a warning has been given.

Where a conversation or interview is terminated the staff member must notify the relevant Group Director of the details as soon as possible.

If in the opinion of the General Manager any correspondence to Council which contains personal abuse, inflammatory statements or material clearly intended to intimidate, it will be returned to the sender and not otherwise acted upon.

7. GENERAL

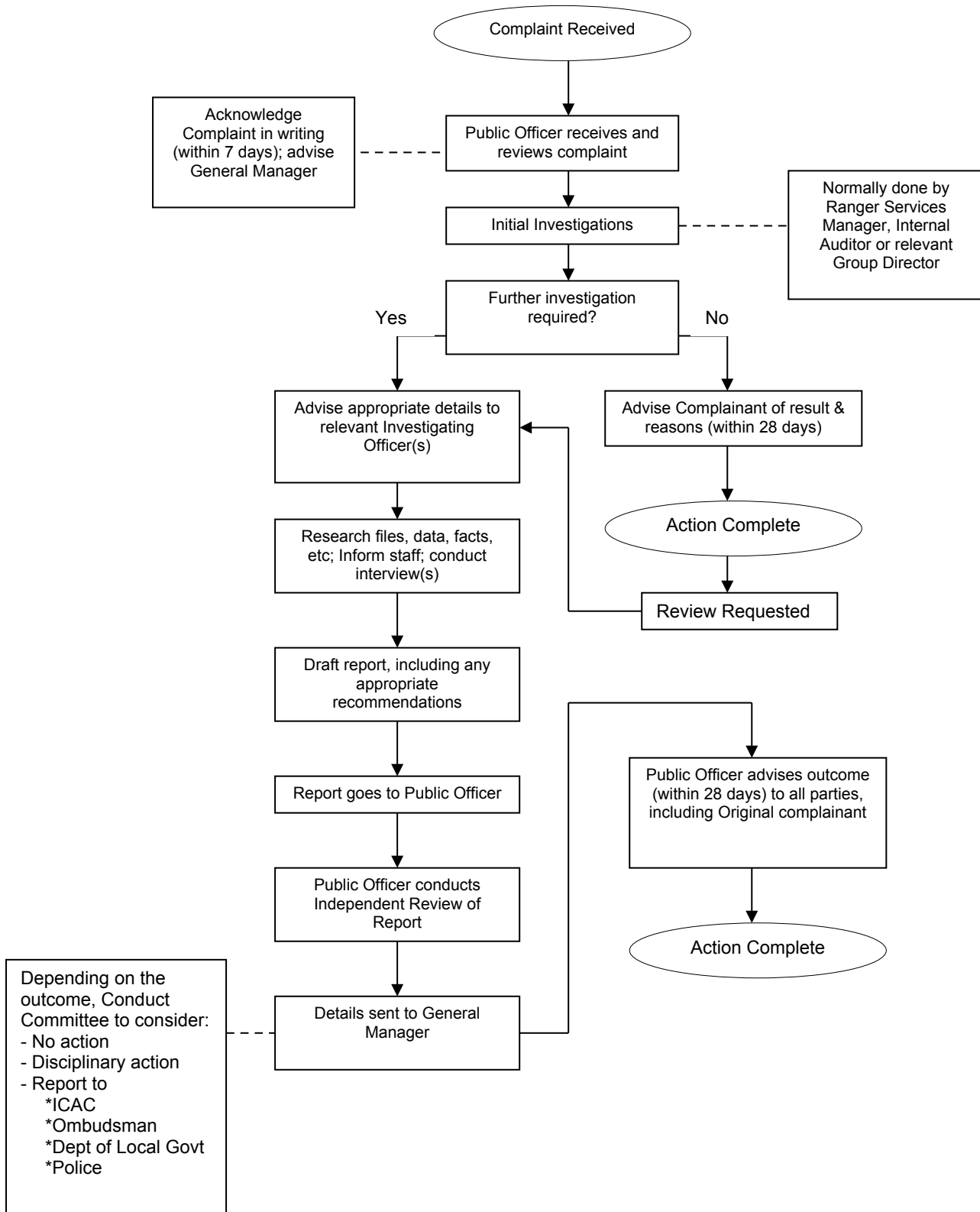
In all of the situations referred to in this policy, adequate documentary records must be made and recorded on the appropriate file within TRIM.

Where the General Manager determines to limit a customer's access to Council in any of the ways specified in this policy, the General Manager must advise the Council as soon as possible of the relevant circumstances and the action taken and forward such advice, where appropriate, to the ICAC, Department of Local Government and the NSW Ombudsman for information.

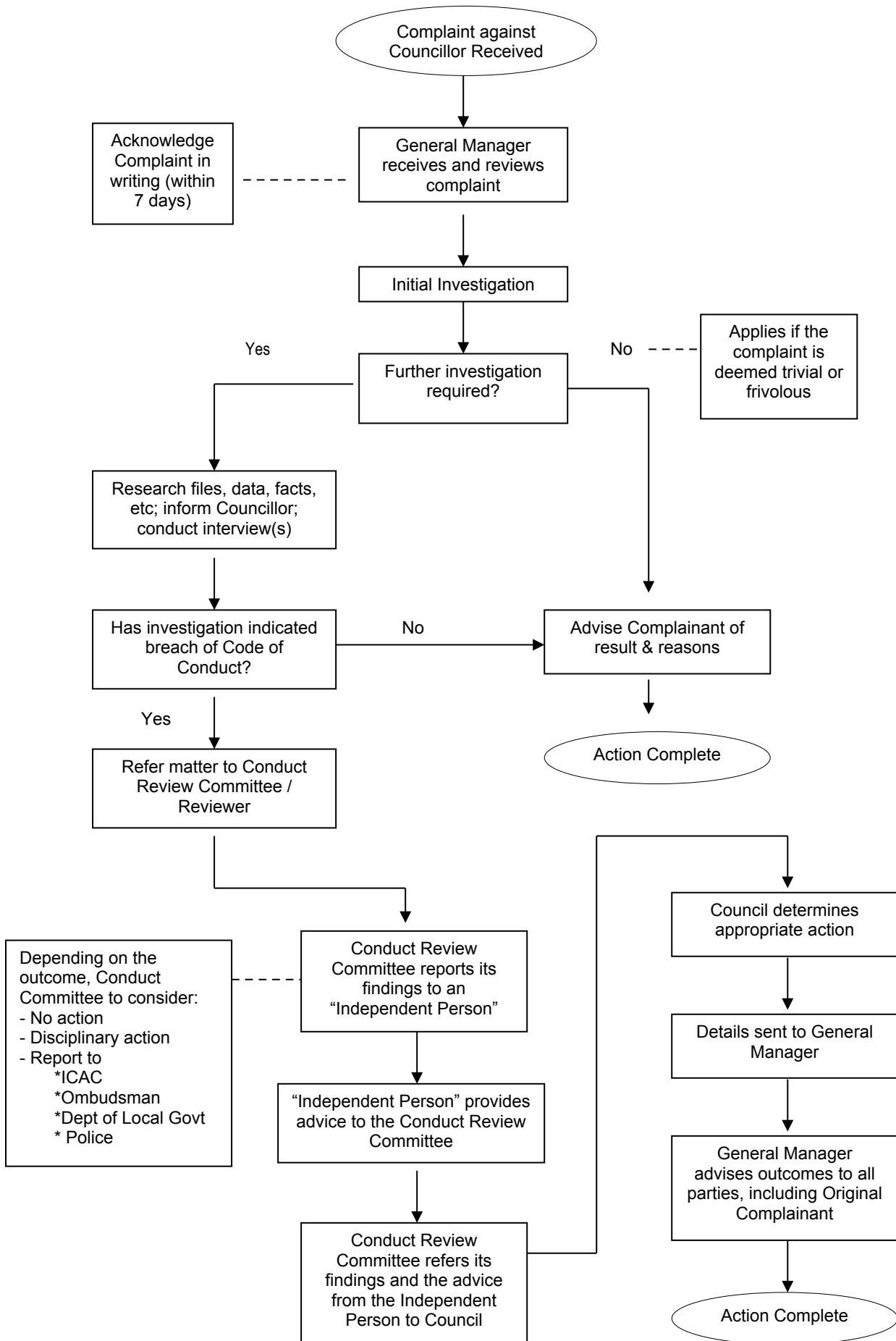
8. APPLICATION OF ESD PRINCIPLES

None applicable.

Appendix 1 – Procedures Flowchart - Complaints against Staff Members



Appendix 2 – Procedures Flowchart –Complaints against Councillors



Appendix 3 – Procedures Flowchart – Complaints against Competitive Neutrality

