

POLICY:-	
Policy Title:	Complaints Policy and Procedure
File Reference:	F10/618
Date Policy was adopted by Council initially:	24 March 2005
Resolution Number:	84/05
Other Review Dates:	18 June 2009, 21 October 2010, 17 March 2011, 19 July 2012, 20 September 2012
Resolution Numbers:	244/09, 402/10, 99/11, 243/12, 317/12
Current Policy adopted by Council:	17 December 2015
Resolution Number:	370/15
Review date:	2018

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	17 March 2011
Procedure/guideline reference number:	N/A

RESPONSIBILITY:-	
Draft Policy developed by:	General Manager
Committee/s (if any) consulted in the development of this Policy:	N/A
Responsibility for implementation:	Director of Finance and Administration
Responsibility for review of Policy:	Director of Finance and Administration

CONTENTS

1	PURPOSE	3
2	STATEMENT	3
2.1	Scope	3
2.2	Organisational Commitment	4
2.3	Definitions	5
2.4	Actions of Staff and Councillors	7
2.5	Competitive Neutrality under the National Competition Policy	7
2.6	Service Delivery	8
2.7	Other Related Documents	8
3	COMPLAINT MANAGEMENT SYSTEM	9
3.1	How to Lodge a Complaint	9
3.2	Where to Lodge a Complaint	10
3.3	When to Lodge a Complaint	10
3.4	Recording of Complaints	10
3.5	Acknowledgement of Complaints	11
3.6	Handling of complaints	11
4	IMPLEMENTATION	12
4.1	Complaints against staff and councillors	12
4.2	Competitive Neutrality Complaints	13
4.3	Management of Public Interest Disclosures	15
4.4	Management of Corrupt Conduct	15
4.5	Three Tiered Approach to Managing Complaints Against Service	15
4.6	Remedies	16
4.7	Anonymous Complaints	16
4.8	Other Complaints	16
4.9	Customers with demands that cannot be satisfied	16
4.10	Customers with vexatious complaints	19
4.11	Rude, Abusive or Aggressive Customers	21
5	GENERAL	21
6	ROLE OF INVESTIGATING AUTHORITY	22
6.1	NSW Ombudsman	22
6.2	Independent Commission Against Corruption (ICAC)	22
6.3	Office of Local Government	22
6.4	Pecuniary Interest and Disciplinary Tribunal	23
7	PERFORMANCE STANDARDS	23
8	REVIEW	23
9	VARIATION	23
	ANNEXURE 1	
	FORM A	
	APPENDIX 1 – Procedures Flowchart - Complaints against Staff Member	
	APPENDIX 2 – Procedures Flowchart - Complaints against Councillor	
	APPENDIX 3 – Procedures Flowchart – National Competition Policy Complaint	
	APPENDIX 4 – Procedures Flowchart - Complaints against General Manager	

1. PURPOSE

The objectives of this policy and procedures are to:-

- To handle all complaints in a fair, consistent, timely and effective manner;
- To provide a policy framework that gives Council's community / stakeholders a degree of certainty that their complaints will be handled in an equitable and efficient manner;
- To define a complaints management system that incorporates the provisions of the Public Interest Disclosures Act 1994 and meets those requirements;
- To obtain maximum information from complainants and to use complaints as a means to enhance Council's service and activity quality, policies and procedures;
- Provide an opportunity to strengthen public relations in regard to the integrity of the Council by demonstrating Council's commitment to dealing with complaints in a positive manner.

This policy provides guidance to Council staff and people who wish to make a complaint on the key principles and concepts of Council's complaint management system.

2. STATEMENT

2.1 Scope

This policy deals with complaints made by members of the public, government agencies, Councillors, Council staff and others.

This policy applies to all staff receiving or managing complaints from the public made to or about Council, regarding Council operations, services, staff and complaint handling.

Staff grievances, code of conduct complaints, service requests, GIPA Access to information requests, and public interest disclosures are dealt with through separate legislation, mechanisms, and separate Council policies.

This Policy deals with the procedure to make a complaint and how complaints will be investigated and managed by Council.

Statement of Intent

A key component of service delivery for Upper Lachlan Shire Council is the handling of complaints from its community / stakeholders in an efficient, effective and proper manner. This will occur only if a readily understood and responsive complaint management system is in place. The system must be understood by Council, staff and the public, and also be responsive to complaints within a timeframe that is acceptable and commensurate with the nature of the complaint.

In addition, the complaints management system must recognise the role of statutory bodies such as the Ombudsman and Independent Commission against Corruption.

2.2 Organisational Commitment

The following table outlines the nature of the commitment expected from Council staff and the way that commitment shall be implemented:-

Who	Commitment	How
General Manager of Upper Lachlan Shire Council	Promote a culture that values complaints and their effective resolution	<p>Report publicly on Council's complaint handling.</p> <p>Provide adequate support and direction to key staff responsible for handling complaints.</p> <p>Encourage all staff to be alert to complaints and assist those responsible for handling complaints resolve them promptly.</p> <p>Recognise and reward good complaint handling by staff.</p> <p>Support recommendations for complaint handling and system improvements arising from the analysis of complaint data.</p>
Complaints Coordinator – The Director of Finance and Administration is responsible for complaint handling	Establish and manage Council complaint management system.	<p>Provide reports to the General Manager on issues arising from complaint handling work.</p> <p>Ensure recommendations arising out of complaint data analysis are implemented where appropriate.</p> <p>Train and empower staff to resolve complaints promptly and in accordance with Council's policies and procedures.</p> <p>Encourage staff managing complaints to provide suggestions on ways to improve the organisation's complaint management system.</p> <p>Encourage all staff to be alert to complaints and assist those responsible for handling complaints resolve them promptly.</p> <p>Recognise and reward good complaint handling by staff.</p>

Alternate Complaints Coordinator is the Manager of Finance and Administration – and staff whose duties include complaint handling	Demonstrate exemplary complaint handling practices	<p>Treat all people with respect, including people who make complaints.</p> <p>Assist people make a complaint, if needed.</p> <p>Comply with this policy and its associated procedures.</p> <p>Keep informed about best practice in complaint handling.</p> <p>Provide feedback to management on issues arising from complaints.</p> <p>Provide suggestions to management on ways to improve the organisation's complaints management system.</p> <p>Implement changes arising from individual complaints and from the analysis of complaint data as directed by management.</p>
All staff	Understand and comply with Council's complaint handling practices.	<p>Treat all people with respect, including people who make complaints.</p> <p>Be aware of Council's complaint handling policies and procedures.</p> <p>Assist people who wish to make complaints access the complaints process.</p> <p>Be alert to complaints and assist staff handling complaints resolve matters promptly.</p> <p>Provide feedback to management on issues arising from complaints.</p> <p>Implement changes arising from individual complaints and from the analysis and evaluation of complaint data as directed by management.</p>

2.3 Definitions

- (a) Service Request: situation in which a person requires information on certain issues or requests works/actions to be taken in regard to a service or function provided by Council. Includes routine inquiries about the organisation's business and requests for the provision of assistance, these requests are dealt with by way of referral to appropriate management staff (for follow-up action as necessary).
- (b) Minor Complaint: refers to a complaint in respect to service delivery / operational matters which is not of a substantive or complex nature. The complaint may be verbal or in writing and can generally be resolved immediately or within a short period of time, (i.e. by reference to Council policy, practice, resolution, determination by Supervisors,

etc.). It is important that details and records of minor complaints be maintained for future reference (as required).

- (c) Serious Complaint: refers to a complaint which alleges a breach of law, misconduct or the like. The complaint cannot be resolved immediately due to its complexity and/or the need for resources to investigate / resolve the matter. Such complaints are to be “managed” in accordance with the requirements of the policy.
 - (d) Feedback: opinions, comments and expressions of interest or concern, made directly or indirectly, explicitly or implicitly, to Council, about services or complaint handling where a response is not explicitly or implicitly expected or legally required.
 - (e) Dispute: an unresolved complaint escalated either within or outside of our organisation.
 - (f) Grievance: a clear, formal written statement by an individual staff member about another staff member or a work related problem.
 - (g) Complaint Management System: all policies, procedures, practices, staff, hardware and software used in the management of complaints.
 - (h) Public Interest Disclosures: is made in accordance with the Public Interest Disclosures Act 1994, a disclosure may be made by a public official to the following:
 - An investigating authority; or
 - The principal officer of a public authority or investigating authority or officer who constitutes a public authority; or
 - To another officer of the public authority or investigating authority to which the public official belongs; or
 - To a Member of Parliament or to a journalist.
- Disclosures must be made voluntarily and may relate to corrupt conduct, maladministration, or serious and substantial waste of public money.
- (i) Competitive Neutrality Complaint: refers to a complaint lodged on the grounds that Council:
 - Has not established an effective complaint handling mechanism;
 - Is not abiding by the spirit of competitive neutrality in its conduct of a business activity.

(Note: Complaints about the level of service or cost of services are not competitive neutrality complaints unless it can be shown that Council has omitted costs associated with the service.)

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

2.4 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; or
- Breach of the Code of Conduct.

2.5 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 other businesses as a result of the 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 2 Businesses:
 - Water Supplies – Crookwell, Gunning, Taralga and Dalton;
 - Sewerage Services – Crookwell, Gunning and Taralga;
 - Domestic Waste Services – Crookwell, Gunning, Taralga and various villages;
- 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.

2.6 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; or
- The policies and procedures adopted by Council.

An initial request for a service is not deemed a complaint, and the matter should only be considered a complaint where there has been an opportunity to rectify an oversight and it has not been resolved.

Council will use service complaints for the following purposes:

1. Creating a second opportunity to have the matter reviewed;
2. Identifying areas that need improvement;
3. Provide opportunities to strengthen public support for the Council; and
4. Assisting in planning and allocation of resources.

Code of Conduct

This policy shall be read in conjunction with the Code of Conduct which sets the standards of behaviour for staff and Councillors in dealing with the public and others.

2.7 Other Related Documents

Reference should be made to the following legislation, guidelines and policy documents when reading this policy:-

- Division of Local Government - *Practice Note 9 – Complaints Management in Councils*;
- Division of Local Government - *Guidelines on the Management of Competitive Neutrality Complaints*;
- ICAC - *Practical Guide to Corruption Prevention*;
- Australian and New Zealand Standard *Guidelines for complaint handling in organizations* AS/NZS 10002:2014;
- NSW Ombudsman – *Complaint Management Framework* June 2015;
- NSW Ombudsman - *Good Conduct and Administrative Practice*;
- NSW Ombudsman – *Managing Unreasonable Complainant Conduct Practice Manual* 2012;
- NSW Ombudsman *Public Interest Disclosures Guidelines* (April 2009);
- Government Information (Public Access) Act 2009;
- Independent Commission Against Corruption Act 1988;
- Local Government Act 1993;
- Local Government (General) Regulation 2005;
- Privacy and Personal Information Protection Act 1998;
- Public Interest Disclosures Act 1994;
- Work Health and Safety Act 2011 and Regulations;

- NSW State Records Act 1998;
- ULSC Code of Business Practice;
- ULSC Code of Conduct;
- ULSC Code of Meeting Practice;
- ULSC Fraud and Corruption Prevention Policy;
- ULSC Government Information (Public Access) Policy (GIPA);
- ULSC Public Interest Disclosures Policy;
- ULSC Grievance Policy;
- ULSC Service Delivery Policy;
- ULSC Statement of Ethical Principles; and
- ULSC Internet and Email Policy.

3 COMPLAINT MANAGEMENT SYSTEM

When responding to complaints, Council staff should act in accordance with our complaint handling procedures as well as any other internal documents providing guidance on the management of complaints. Staff should also consider any relevant legislation and/or regulations when responding to complaints and feedback.

Upper Lachlan Shire 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 and thus provide opportunities for improvement that may not otherwise come to Council's notice.

Council will continually monitor our complaint management system to:

- Ensure its effectiveness in responding to and resolving complaints;
- Identify and correct deficiencies in the operation of the system;
- Monitoring may include the use of audits.

3.1 How to Lodge a Complaint

A complaint may be lodged in the following ways:-

- By letter;
- In person;
- By e-mail;
- By facsimile;
- By Facebook;
- By telephone; or
- Anonymously (for serious complaints only).

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:-

Crookwell Administration Offices,
44 Spring St,
Crookwell or

Gunning Administration Offices,
123 Yass Street
Gunning or

Taralga Community Service Centre
29 Orchard Street
Taralga

By telephone/fax on: Telephone (02) 4830 1000
Fax (02) 4832 2066

By E-mail: council@upperlachlan.nsw.gov.au

By letter: Private and Confidential
For the attention of the General Manager
Upper Lachlan Shire Council
PO Box 42
Gunning NSW 2581

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

Unless the complaint has been resolved at the outset, Council will record the complaint and its supporting information. The record of the complaint will document:

- The contact information of the person making a complaint;
- Issues raised by the person making a complaint and the outcome/s they want;
- Any other relevant and additional support the person making a complaint requires.

Where appropriate, complaints and service requests from the public shall be recorded in the Civica Customer Request Management System (CRM) except those

relating to members of staff and Councillors where privacy and confidentiality issue must be considered. Separate files in TRIM are prepared for each complaint.

3.5 Acknowledgement of Complaints

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

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

3.6 Handling of Complaints

Where a substantive reply is not provided within 20 business days, further advice shall be given to the complainant (within the this period) on when the matter is expected to be resolved.

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

Providing Reasons for Decisions

Following consideration of the complaint and any investigation into the issues raised, Council will contact the person making the complaint and advise them:

- The outcome of the complaint and any action taken;
- The reason/s for Council's decision;
- The remedy or resolution/s that Council have proposed or put in place; and
- Any options for review that may be available to the complainant, such as an internal review, external review or appeal.

Closing the complaint, record keeping, redress and review

Council will keep comprehensive records about:

- How the complaint was managed;
- The outcome/s of the complaint (including whether it or any aspect of it) was substantiated, any recommendations made to address problems identified and any decisions made on those recommendations; and
- Any outstanding actions that need to be followed up.

Council will ensure that outcomes are properly implemented, monitored and reported to the General Manager and senior management.

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 General Manager. The General Manager will be responsible for making enquiries, or causing enquiries to be made, into complaints alleging breach of the Code of Conduct by members of staff. Where a complaint against a staff member involves a possible breach of Council's Code of Conduct, outcome options include:

- Disciplinary action, in accordance with staff disciplinary policy;
- Reporting the matter to the Police;
- Reporting the matter to the Office of Local Government – Department of Premier and Cabinet, 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 assessment and where the matter is considered to be a breach of the Code of Conduct, the Mayor may refer the matter to the Conduct Reviewer. The Conduct Reviewer shall consider the matter and provide a report to Council. Council shall decide on any appropriate action to take.

Any complaints against 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 assessment. The General Manager in accordance the Code of Conduct must determine to:

- Take no further action and give the complainant the reason(s) in writing;

- Resolve the complaint and give the complainant advice on the resolution of the matter(s) in writing;
- Discontinue the assessment in the circumstances where it has become evident that the matter should be referred to another body or person and advise the complainant in writing;
- Refer the matter to the Conduct Reviewer;
- Refer the matter to the Office of Local Government.

Council's Conduct Reviewer must decide whether the conduct reported to it comprises a breach of the Code of Conduct. The Conduct Reviewer will report the findings to the Council, the complainant and the person the subject of the complaint. The Conduct Reviewer may, in their report, recommend that Council take any action it considers reasonable in the circumstances.

4.2 Competitive Neutrality Complaints

All complaints received are to be treated in a confidential manner (by staff and Council). In addition, all complaints should be investigated and treated in an objective and impartial manner. Complete documentation of all actions and finding is to be maintained. In this respect an "Internal Investigations" booklet published by the ICAC should be consulted.

On receipt of complaints the following action is to be taken:-

(i) Verbal Complaints

The complainant should be referred to the Complaints Coordinator. The person receiving the complaint is to record sufficient details of same to enable the matter to be followed up. This includes the name and contact details of complainant, specific nature of complaint (what/who involved, time, location, etc.). Form A (as attached) to be utilised for that purpose.

The complainant should be advised that as part of policy the matter will be investigated and further contact made with them i.e. for further details and/or result of investigation. A response to the complaint will be provided within three (3) weeks of lodgement (except in exceptional or complex circumstances).

Following receipt of the complaint, the Form A is to be sent to the Complaints Coordinator. The Complaints Coordinator will undertake appropriate investigations of the matter and record details of same. This process will involve referral to appropriate staff and an objective assessment of the issues involved. In the case of a competitive neutrality complaint, the investigation will be undertaken by the Complaints Coordinator or their nominee (independent of the business activity). Where necessary, independent assistance may be sought and an investigatory panel consisting of staff and/or Councillors established.

Depending on result of investigations, action is to be taken to alleviate any future recurrence; refer to Council/Ombudsman/ICAC guidelines (as

appropriate) and/or disciplinary action. Details of action taken to be recorded on Form A and advice forwarded/given to complainant. On completion of action, Form A is to be signed by General Manager. In the case of competitive neutrality complaints where the complainant is dissatisfied with the determination by the General Manager, the matter will be referred to the Office of Local Government. Remedies to resolve a Competitive Neutrality Complaint include the following:

- Provide more information to the complainant for a more accurate understanding of competition policy;
- Investigate and review Council's business activity if a legitimate complaint is made;
- Change Council's business practice where a complaint is justified. (This may require Council's consent before the change can be approved).

(ii) Written Complaints

On receipt of a written complaint the matter is to be referred immediately to the Complaints Coordinator. The person receiving the complaint is to initiate a Form A for the complaint and the process listed for verbal complaints (see above) followed. All complaints will be properly reviewed and an appropriate course of action taken.

The Conduct Reviewer will act as an independent review body. Independent persons are appointed as approved by a Council resolution.

The Conduct Reviewer, as outlined in the Code of Conduct, will convene whenever there is a complaint against the Mayor, a Councillor or the General Manager. This Conduct Reviewer is responsible for initiating, recording and acting on the complaint.

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

All such complaints must be directed to the Complaints Coordinator, who will deal with competitive neutrality complaints in accordance with the Council's policy and procedures.

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.

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 Office of Local Government – Department of Premier and Cabinet.

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 Management of Public Interest Disclosures

The Public Interest Disclosures Act 1994 aims to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector.

The management of Public Interest Disclosures does not form part of this Policy.

4.4 Management of Corrupt Conduct

Where, on the Councils' assessment, complaints may concern alleged corrupt conduct, these shall be reported to the ICAC immediately or NSW Police.

The management of Corrupt Conduct complaints does not form part of this Policy.

4.5 Three Tiered Approach to Managing Complaints against Service

Council has established a three tier approach to managing service complaints.

Tier 1 Complaints falling into this category shall be dealt with by the frontline staff who shall be empowered to deal with initial complaints with an aim to resolving complaints at first contact. This obligation will progressively be included into the relevant staff members Job Description. Staff are required to record the complaint in TRIM for later use if required. If the complaint is not satisfied at this stage it is then referred to a responsible officer in the relevant Section within the organisation that shall deal with the matter in accordance with this policy.

Tier 2 Where that complaint has not been resolved, it shall be referred to the relevant Manager within the Section. If the complaint remains unresolved, or the person wishes to appeal the determination of the relevant Manager, the appeal is referred to the Complaints Coordinator for investigation/review. If it is found that, following review/investigation by the Complaints Coordinator, that the complaint is vexatious or cannot be satisfied, Clause 4.10 of this policy shall apply.

Tier 3 If the complaint is still unresolved, the complainant will be advised of avenues of redress. This may include:

- Referral to external bodies such as the Ombudsman, Office of Local Government or the Independent Commission against Corruption (ICAC) depending on the nature of the complaint.
- Dispute resolution procedure (mediation).
- Complainant informed of appeal procedure or other legal remedy that may apply.

4.6 Remedies

If it is found that a complaint is justified, where practicable, complainants should be put back into the position that they would have been if the problem had not arisen.

In making any decision it is paramount that the remedy is consistent and fair to both Council and the complainant. This may involve reversing a decision or providing a service or some other form of redress that may be considered appropriate by the relevant staff member.

If a remedy to a complaint is proposed by the Complaints Coordinator, the comments from the relevant Section Manager or Director may, depending on the circumstances, be obtained before its implementation.

4.7 Anonymous Complaints

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

4.8 Other Complaints

Reporting breaches under the Code of Conduct – will be dealt with under Part 4 of the Code of Conduct Procedure.

Complaints under Public Interest Disclosures – will be dealt with under the Public Interest Disclosure Policy.

Complaints about Privacy Breaches – will be dealt with under the Privacy Management Plan.

4.9 Customers with Demands that Cannot be Satisfied

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

- make unreasonable demands upon Council;
- are unreasonably persistent;
- provide an unreasonable lack of cooperation;
- provide unreasonable arguments; or
- The behaviour is unreasonable.

Vexatious complaints include complaints that are intended to provoke irritation or anxiety and can be frivolous. Such requests may lack intellectual substance and may 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.

Sometimes Council receives demands that, based on 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, may result in a diversion of resources.

Examples of Unreasonable Demands include but are not limited to:

- Complainant insists on outcomes that cannot be achieved;
- Insist on a 'moral' outcome;
- Demanding an apology/explanation when no reasonable basis exists;
- Consistently creating complexity when there is none;
- Making unreasonable resource demands.
- 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.

Strategies for Dealing with Unreasonable Demands:

- Managing expectations from the outset;
- Adopting a firm, clear and authoritative communication style both in writing and orally;
- Making sure the communication style is appropriate to the specific complainant;
- Making sure the complainant understands the Council's role;
- Defining the key issues and keeping the focus on them;
- Keeping the complainant informed of progress, and
- Providing clear reasons for decisions.

Examples of being Unreasonably Persistent include but are not limited to:

- Persisting with a complaint even though it has been comprehensively examined and avenues of internal review within Council have been exhausted;
- Persisting with an interpretation of the law that is not in accordance with generally accepted or expert views;
- Showing an inability to accept the final decision;
- Reframing a complaint with a view to it being investigated again; or
- Making excessive and regular contact with the case officer.

Strategies for Dealing with Unreasonable Persistence include but are not limited to:

- Communicating clearly and transparently, (e.g. telling complainants firmly that something is 'not going to happen');
- Requiring complainants who want an internal review to provide an argument for one, (i.e. to explain how the complaint handler has erred or provide new information; if they don't, their file will remain closed);
- Making it clear following internal review that, for better or worse, Council has made its decision and advising the complainant that if they remain dissatisfied, they should seek an independent external review of that decision to an external agency, and maintaining a 'no means no' stance following internal review;
- Adopting, when appropriate, a firm "no further correspondence/contact" stance and requiring any variation from this to be authorised at a high level;
- Not allowing complainants to reframe the complaint, unless they raise new and important issues;
- Ending telephone calls that are unproductive;
- Asserting the Council's position, acknowledging their position, but stating that the Council decision is final;
- Managing expectations from the outset, including ensuring initial expectations are realistic;
- Adopting a firm and authoritative communication style both in writing and verbally; and
- Defining key issues and keeping the focus on them.

Examples of Unreasonable Lack of Cooperation include but are not limited to:

- Presenting a large quantity of information that is not coordinated;
- Refusing to present all available information at the outset;
- Focussing on principles rather than issues; and
- Raising new issues in the process of considering a matter.

Strategies for Dealing with Lack of Cooperation include but are not limited to:

- Requiring complainants to organise or summarise the information they have provided before you look at the complaint;
- Requiring complainants to clarify what their issues are before you will look at the complaint;
- Telling complainants that you will not look at their complaint until all the information has been presented;
- Ending your involvement in the complaint where it is discovered that the complainant has been wilfully misleading or untruthful in a significant way and inviting them to raise their concerns with the appropriate external agency;
- Managing expectations from the outset, including ensuring initial expectations are realistic;

- Adopting a firm and authoritative communication style both in writing and verbally; and
- Defining key issues and keeping the focus on them.

Examples of Unreasonable Arguments include but are not limited to:

- Irrational beliefs;
- Unsupported 'conspiracy theories';
- Insisting that one solution is the only correct one contrary to alternative argument;
- Irrational interpretation of facts; or
- Overemphasising a trivial issue.

The strategy for dealing with unreasonable arguments is that they need to be declined and the complainant disengaged at the earliest opportunity after it becomes clear that the argument is groundless. If the complainant persists they can be invited to raise their concerns with an external agency.

Examples of Unreasonable Behaviour include but are not limited to:

- Confronting behaviour, rude, aggressive, threatening either in person or through the mail;
- Making threats of self harm or harm to others; or
- Manipulative behaviour – (tears, veiled threats).

Strategies for Dealing with Unreasonable Behaviour include but are not limited to:

- Request the complainant to address the issues in more moderate language;
- End telephone calls and interviews if the complainant is abusive and record the tone of the complainant; or
- Indicate that you need to make further inquiries and if appropriate obtain support from the Director of the Section.

4.10 Customers with Vexatious Complaints

If in the opinion of the relevant Director, the complaint is:

- Vexatious;
- Unreasonable; or
- Cannot be satisfied.

This means that the above strategies and appropriate avenues of internal review or appeal have been exhausted and the customer continues to contact Council. In such situations the Director shall contact the customer restating Council's position on the matter and advise that if the customer continues to contact Council regarding the matter he/she 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; or
- 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 those circumstances, the strategies outlined previously are to be used by the staff member dealing with the matter.

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.

The General Manager may, depending on the nature of the issue, 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 following will apply:

- Require all further communication to be put in writing; or
- Continue to receive, read and file correspondence but only acknowledge it.

4.11 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 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; and
- 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 Director of the details as soon as possible.

Any correspondence which, in the opinion of the relevant Manager, contains personal abuse, inflammatory statements or material clearly intended to intimidate will be returned to the sender requesting that they reframe their concerns in more moderate language.

5 GENERAL

In all of the situations referred to in this policy, adequate documentation must be created 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, Office of Local Government and the NSW Ombudsman for information.

A Council staff member will be notified of a complaint when an issue is seen to have some validity. If there are no substantiated issues the staff member or Councillor will not be contacted.

Council staff can request information from the Human Resources Coordinator on whether any complaints have been received relative to themselves or their role.

6 ROLE OF INVESTIGATING AUTHORITIES

6.1 NSW Ombudsman

The Ombudsman is responsible for safeguarding the public interest by providing for the redress of justified complaints and promoting fairness, integrity and practical reforms in public administration in NSW. The Ombudsman is a neutral investigator. The NSW Ombudsman should be viewed as an office of last resort in dealing with a complaint.

If, after investigation, a complaint is considered to be justified, the Ombudsman will recommend action to remedy the problem. This may involve some action that will help the individual who complains, but more often will focus on fixing deficiencies in the law or procedures.

In relation to Local Government, the Ombudsman's job is to make sure local councils act fairly and reasonably. The Ombudsman's jurisdiction is very broad and largely concerns conduct which can be described as "maladministration" or "wrong conduct". This includes any action or inaction or alleged action or inaction, relating to a matter of administration, i.e. contrary to law, unreasonable, unjust, improperly discriminating, etc.

6.2 Independent Commission Against Corruption (ICAC)

The ICAC is concerned with "corrupt conduct". Corrupt conduct can be summarised as the dishonest or partial exercise of official functions by a public official.

This is conduct at the more serious end of the "maladministration" or "wrong conduct" spectrum as it must also involve a criminal offence or conduct serious enough to warrant dismissal or disciplinary action, e.g. taking or offering bribes, public official dishonestly using their influence, blackmail, fraud and election bribery.

6.3 Office of Local Government

The Office of Local Government provides and manages a policy and legislative framework for local government. The Local Government Act 1993 significantly increases the ability of the Minister and the Chief Executive of the Office to oversee and monitor the performance and activities of Councils.

The Chief Executive has generally wide powers of investigation into Council activities. Formal investigations of councils are undertaken by persons appointed by the Chief Executive as departmental representatives. The Minister has powers to direct a Council in terms of any recommendation made by a departmental representative arising out of an investigation.

6.4 Pecuniary Interest and Disciplinary Tribunal

The Local Government Pecuniary Interest and Disciplinary Tribunal is constituted under Chapter 14, Part 4, of the Local Government Act 1993 to hold hearings into and decide allegations of contraventions of Part 2 of that Chapter (which deals with duties of disclosure of pecuniary interests) and to perform such other functions as are conferred or imposed on it by the Act (section 489).

7 PERFORMANCE STANDARDS

The Performance Standards are set out in the Flowcharts outlined in the appendices. Generally an acknowledgement is to be provided within seven days and the complaint resolved within four weeks. It is important that the complainant is kept informed of progress with the complaint if it is expected that resolution cannot be achieved within that timeframe.

The Council Officers involved in managing complaints will ensure all effort is made in maintaining confidentiality throughout the process in relation to the complainant and the person who is the subject of the complaint to:

- Minimise the risk of harm to these parties including any potential harassment;
- Ensure the integrity of the investigation;
- Maximise the information provided to assist the review;
- Reduce the risk of contamination of information or evidence; and
- Meet statutory requirements in cases of public interest disclosures.

Witnesses interviewed in the course of an investigation will be asked not to discuss the matter with other witnesses or third parties.

Notwithstanding the above, confidentiality of the complainant or other sources of information cannot be guaranteed.

8 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.

9 VARIATION

Council reserves the right to vary or revoke this policy.

Annexure 1

A. How to Make a Complaint to Council?

In writing and/or on Form A and marked/addressed as follows:-

Private and Confidential

For the attention of the General Manager

Upper Lachlan Shire Council

PO Box 42

GUNNING NSW 2581

In person: by making an appointment to see the General Manager. This can be arranged by telephone on (02) 4830 1000. The appointment can be arranged either at Council premises or at the person's home/place of business or other appropriate place.

By telephone: by contacting the General Manager on the above telephone number.

B. How to make a complaint to an external agency?

Independent Commission Against Corruption (ICAC)

ICAC may investigate allegations of Corrupt Conduct of Councils, Councillors and its Officers. ICAC may be contacted on 02 8281 5999 or by writing to:-

ICAC

GPO Box 500

Sydney NSW 2001

Office of Local Government (OLG)

The OLG may investigate complaints concerning the conduct and management of Councils. They may also investigate complaints concerning the disclosure or nondisclosure of pecuniary interest matters. The Office may be contacted on 02 4428 4100 or by writing to:-

The Chief Executive

Office of Local Government

Locked Bag 3015

NOWRA NSW 2541

NSW Ombudsman

The Ombudsman may be contacted on 02 92861000 or by writing to:-

The Office of the Ombudsman

Level 24

580 George Street

SYDNEY NSW 2000

Form A

Upper Lachlan Shire Council
COMPLAINTS MANAGEMENT

Date Received: _____

Name/Contact Details of Complainant:

Details of Complaint:

Signature of Receiver: _____

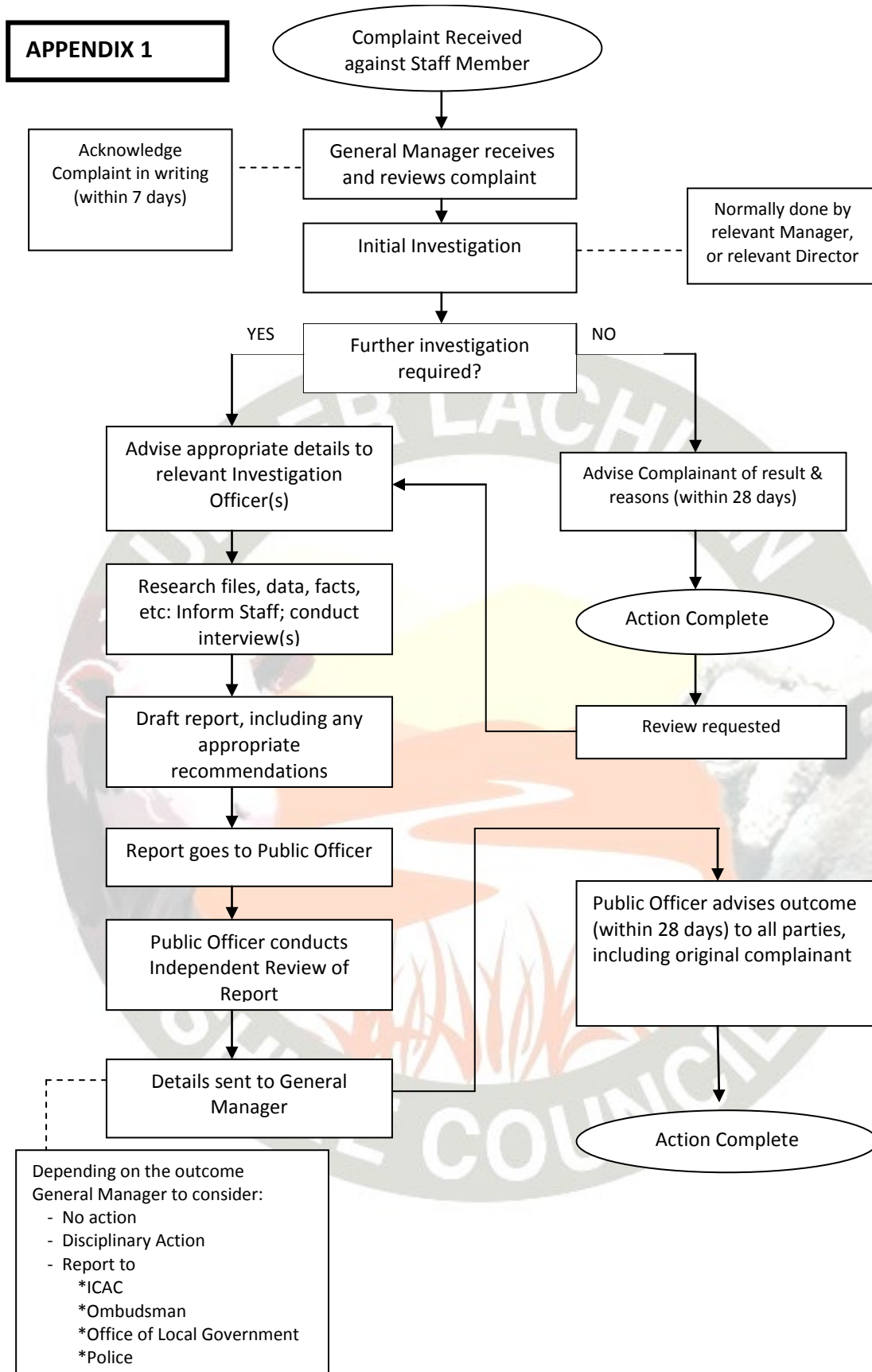
Action Taken:
(including discussions/referral of matter) _____

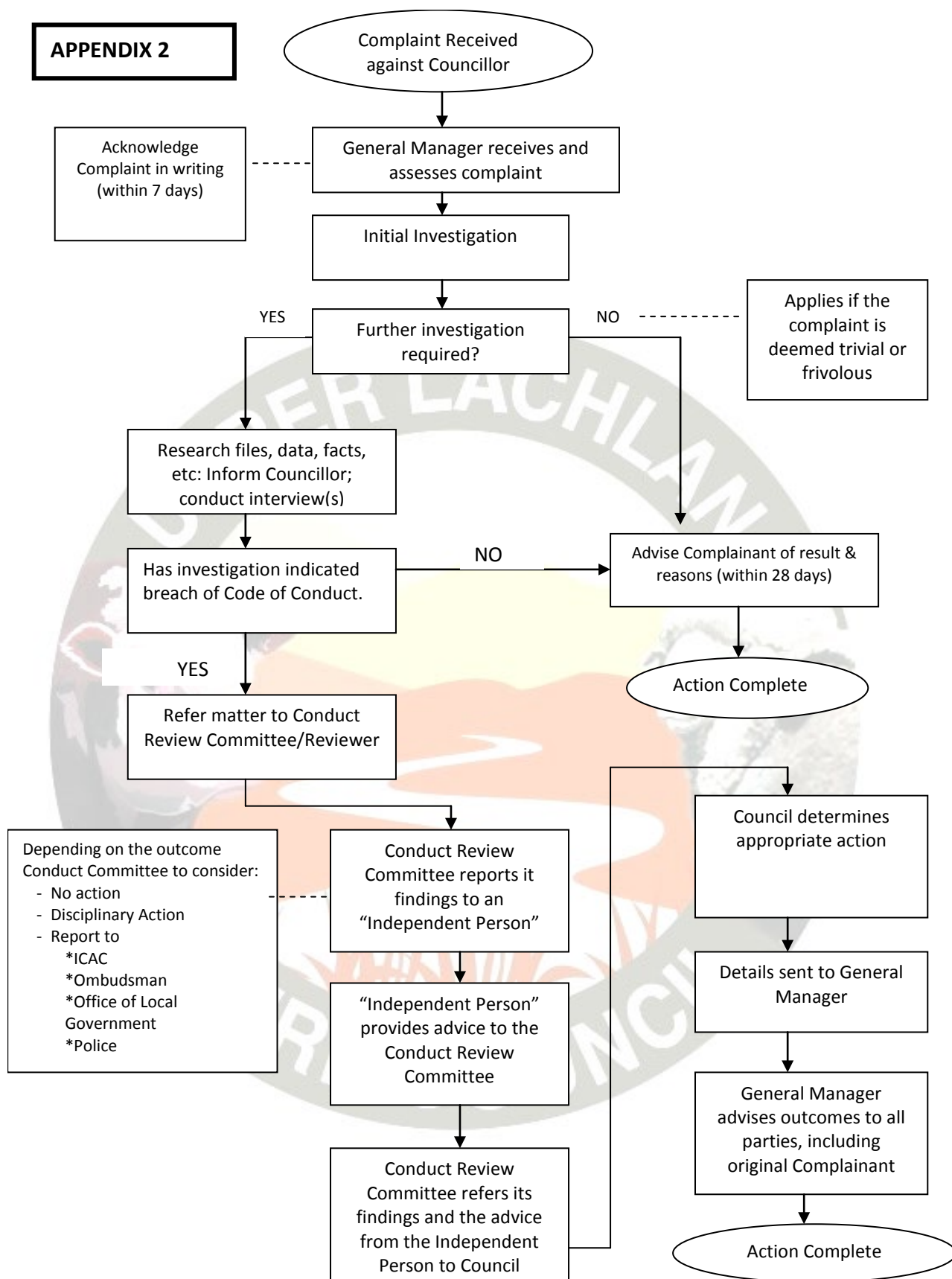
Note: Acknowledgement to applicant required within seven (7) days of lodgement

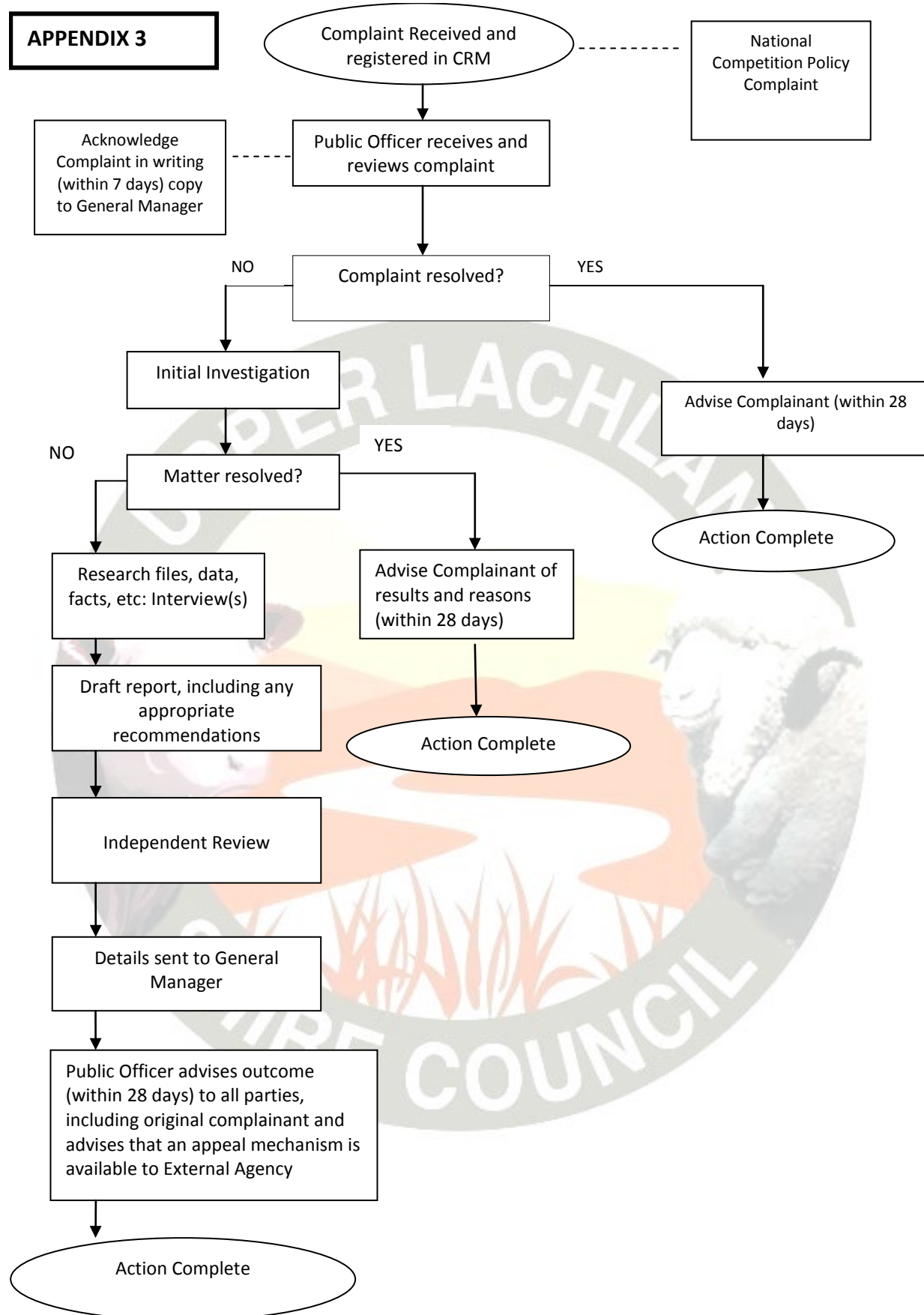
Result of Action:
(Including advice of action to Applicant) _____

Signature of General Manager:

_____ **Date** _____







APPENDIX 4

