

# Office of the **Independent Assessor**

The complaint landscape in Indigenous councils



**Queensland  
Government**

## Introduction

This report provides a snapshot of the complaints received by the Office of the Independent Assessor (OIA) in relation to the conduct of councillors in Queensland's 17 Indigenous local government areas.

It examines the number and types of allegation that were raised immediately following the quadrennial local government elections on 28 March 2020 through to the end of the year. As such, all data relates to the period 29 March – 31 December 2020, unless otherwise stated.

This analysis was undertaken to facilitate a better understanding of councillor conduct issues arising in First Nations communities, and to inform measures which seek to strengthen the capacity, integrity, and trust in Indigenous councils in Queensland.

## Councillor capacity

Historically Indigenous councils experience a high turnover of councillors\* at quadrennial local government elections in Queensland (\*includes mayors). At the past three statewide elections, 76% of councils in First Nations communities had a turnover rate of more than 70%. In 2020, three councils experienced a 100% turnover and only 29 of the 97 councillors in these areas returned to office.

These statistics reinforce the need to learn from and leverage the experience of returned councillors. They also highlight the need for a sustained focus on building the capacity of councillors as elected members of local government through inductions and ongoing training.

More work is required to understand the reasons for this high turnover, the likely impact on council chief executive officer (CEO) positions, and the implications for governance and continuity of leadership.

The table below shows the turnover rate per council at quadrennial elections:

Council	2012	2016	2020
Aurukun Shire Council	80%	20%	100%
Cherbourg Aboriginal Shire Council	40%	100%	60%
Doomadgee Aboriginal Shire Council	80%	80%	80%
Hope Vale Aboriginal Shire Council	60%	60%	80%
Kowanyama Aboriginal Shire Council	60%	80%	100%
Lockhart River Aboriginal Shire Council	80%	40%	40%
Mapoon Aboriginal Shire Council	40%	60%	60%
Mornington Shire Council	100%	60%	80%
Napranum Aboriginal Shire Council	100%	80%	100%
Northern Peninsula Area Regional Council	100%	83%	83%
Palm Island Aboriginal Shire Council	80%	40%	80%
Pormpuraaw Aboriginal Shire Council	40%	100%	40%
Torres Shire Aboriginal Shire Council	40%	60%	20%
Torres Strait Island Regional Council	69%	56%	50%
Woorabinda Aboriginal Shire Council	100%	80%	80%
Wujal Wujal Aboriginal Shire Council	60%	60%	60%
Yarrabah Aboriginal Shire Council	80%	100%	80%

## Historical complaint statistics

The following table details the number of complaints received in relation to each council, per financial year. The figures for 2020-21 are incomplete as this period was ongoing at the time of this report (i.e. figures recorded 1 July -31 December 2020 only).

An increased number of complaints in recent years is consistent with general trends across local government in Queensland.

Council	2016/17	2017/18	2018/19	2019/20	2020/21	Total
Aurukun Shire Council	-	-	-	1	2	3
Cherbourg Aboriginal Shire Council	-	-	-	1	2	3
Doomadgee Aboriginal Shire Council	8	6	2	4	1	21
Hope Vale Aboriginal Shire Council	1	-	-	-	-	1
Kowanyama Aboriginal Shire Council	-	-	-	5	1	6
Lockhart River Aboriginal Shire Council	3			2	4	9
Mapoon Aboriginal Shire Council	-	-	2	7	3	12
Mornington Shire Council	-	-	1	16	9	26
Napranum Aboriginal Shire Council	-	-	-	3		3
Northern Peninsula Area Regional Council	4	1	6	18	117	146
Palm Island Aboriginal Shire Council	4	1	26	3	2	36
Pormpuraaw Aboriginal Shire Council	-	-	-	4	1	5
Torres Shire Aboriginal Shire Council	-	-	5	-	3	8
Torres Strait Island Regional Council	9	17	4	1	8	39
Woorabinda Aboriginal Shire Council	2		6	4	1	13
Wujal Wujal Aboriginal Shire Council	1	1	-	1	-	3
Yarrabah Aboriginal Shire Council	2	2	1	-	16	21
	<b>34</b>	<b>28</b>	<b>53</b>	<b>70</b>	<b>170</b>	<b>355</b>

## Post-election complaints

Following the 2020 local government elections, the OIA received 194 complaints about the conduct of councillors from Indigenous councils. This represented 22% of all complaints lodged with the OIA between 29 March and 31 December 2020.

The result was skewed by a high number of matters from the Northern Peninsula Area Regional Council (NPARC), where a single issue generated 107 complaints.



## Source of complaints

Members of the local community were the main source of complaints in Indigenous council areas.

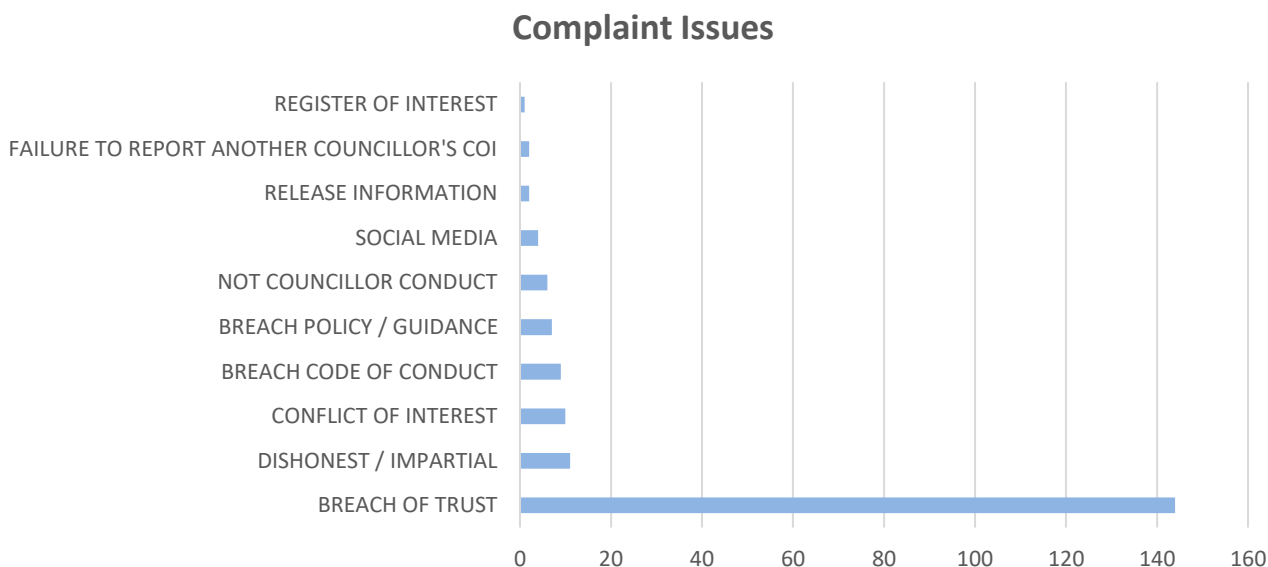
Between 29 March-31 December 2020, 17% of complaints were made anonymously compared to 13% in non-Indigenous councils. However, this result is skewed by the spike in complaints from NPARC. When the statistics are adjusted to account for the anomaly, the rate of anonymous complaints is 28% in Indigenous councils, which is more than double that in other local government areas.

The reasons for complaints being made anonymously often related to a fear of retaliation or retribution for raising a matter, either in the context of relationships within the council or the broader community.

Since the OIA commenced in 2018 there has been one self-referral from an Indigenous councillor, which was received in the report period.

## Complaint issues

The graph below provides a breakdown of the issues raised in councillor conduct complaints.



The highest number of issues related to alleged breaches of the trust placed in a councillor. This occurs when a councillor breaches a responsibility contained in section 12 of the *Local Government Act 2009* or one of the local government principles in section 4.

While this result is skewed by a one-off event that generated 107 complaints, breaches of trust would still be the leading complaint issue in the absence of this matter.

### **Themes within complaints**

Complaints about councillors in Indigenous councils often related to:

- perceptions of favouritism and/or a lack of impartiality in the awarding of housing, contracts, and projects in the community
- conflicts of interest arising from relationships in small communities where there are strong family or cultural ties
- a councillor’s involvement as an office holder or trustee in other community corporations (including council-owned entities and land trusts)
- conduct on social media
- engagement in broader community disputes
- failures to appropriately record business interests on registers of interest, particularly when bidding for council work or positions at corporations which are active in the community.

These issues highlighted some unique complexities faced by Indigenous councillors in fulfilling their roles, including:

- differences between legal and cultural concepts of relationships that might give rise to a conflict of interest
- tensions between legislated councillor conduct standards and cultural or family expectations
- councillors' dual roles in corporations, organisations and or trusts which are active in the community and closely linked to the business of council.

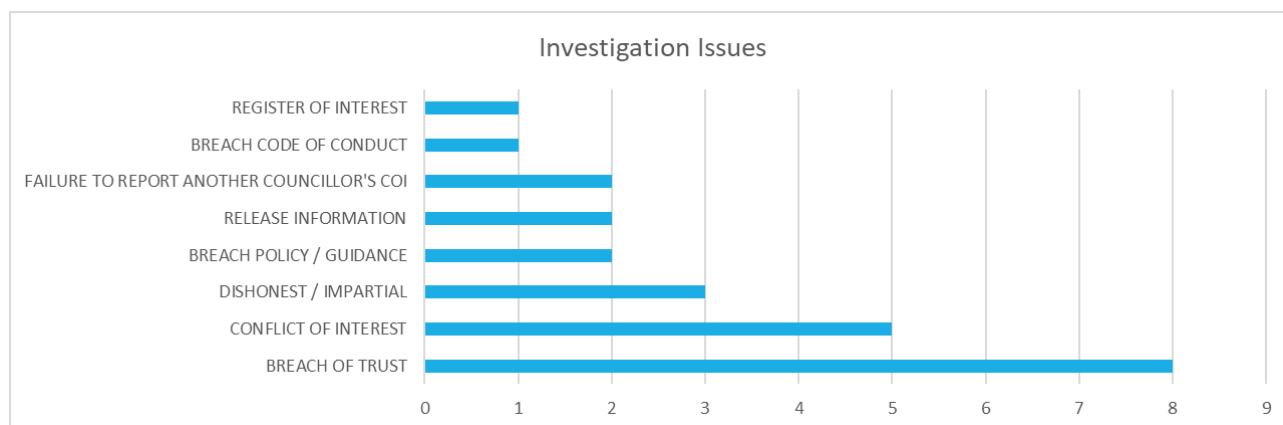
## Issues subject to investigation

The OIA investigates those complaints that raise a reasonable suspicion a councillor has engaged in misconduct. It may also investigate some allegations of corrupt conduct as part of an agreement with the Crime and Corruption Commission (CCC), pursuant to section 40 of the Crime and Corruption Act.

During the report period:

- 21% of complaints that alleged a breach of trust progressed to an investigation, however it must be noted that 104 such matters were pending assessment as at 31 December 2020.
- 50% of conflict-of interest complaints became subject to investigation.
- The following complaints progressed to an investigation in all instances:
  - failure to update register of interests
  - failure to report another councillor's undeclared conflict of interest
  - release of information confidential to council.

The graph below illustrates the issues that became subject to an investigation.



Investigations in Indigenous communities often encounter unique difficulties which can hinder evidence gathering. Foremost amongst these is a concern of reprisal amongst complainants and witnesses which limits their willingness to provide information on the record, and gaps in recordkeeping in some councils.

During the reporting period the COVID-19 pandemic delayed investigations in remote and Indigenous communities. This was due to travel restrictions and/or the inability to gather evidence electronically as a result of technology issues.

## Opportunities for capacity development

While there are complex challenges associated with efforts to build the leadership capacity of councillors in Indigenous areas due to the circumstances outlined throughout this report and the remoteness of these communities, opportunities also are present.

Key opportunities include:

- Partnering with experienced Indigenous councillors or CEOs, past or present, to develop and deliver training, ongoing support and mentoring for Indigenous councillors.
- Prioritising mentoring and support arrangements for Indigenous mayors with no previous local government experience.
- Developing tailored training that focuses on the misconduct risks/experience of councillors in Indigenous communities.
- Training for councillors on managing community/family disputes, including de-escalation strategies.
- Routinely combining formal training opportunities with events that bring Indigenous councillors to central locations.

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