



Western Australia

Local Government Act 1995

**Local Government (Model Code of Conduct)
Regulations 2021**

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20 JULY 2021 - ATTACHMENT 9.3.1a

Local Government (Model Code of Conduct) Regulations 2021

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Local Government (Model Code of Conduct) Regulations 2021

Part 1 — Preliminary

1. Citation

These regulations are the *Local Government (Model Code of Conduct) Regulations 2021*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government Legislation Amendment Act 2019* sections 48 to 51 come into operation.

Part 2 — Model code of conduct

3. Model code of conduct (Act s. 5.103(1))

The model code of conduct for council members, committee members and candidates is set out in Schedule 1.

Part 3 — Repeal and consequential amendments

Division 1 — Repeal

**4. *Local Government (Rules of Conduct) Regulations 2007*
repealed**

The *Local Government (Rules of Conduct) Regulations 2007* are repealed.

Division 2 — Other regulations amended

**5. *Local Government (Administration) Regulations 1996*
amended**

- (1) This regulation amends the *Local Government (Administration) Regulations 1996*.
- (2) After regulation 34C insert:

Part 9A — Minor breaches by council members

**34D. *Contravention of local law as to conduct*
(Act s. 5.105(1)(b))**

- (1) In this regulation —
local law as to conduct means a local law relating to the conduct of people at council or committee meetings.
- (2) The contravention of a local law as to conduct is a minor breach for the purposes of section 5.105(1)(b) of the Act.

Local Government (Model Code of Conduct) Regulations 2021

Part 3 Repeal and consequential amendments

Division 2 Other regulations amended

r. 6

6. Local Government (Audit) Regulations 1996 amended

- (1) This regulation amends the *Local Government (Audit) Regulations 1996*.
- (2) In regulation 13 in the Table:
 - (a) under the heading “**Local Government Act 1995**” delete “s. 5.103” and insert:

s. 5.104

- (b) delete:

Local Government (Rules of Conduct) Regulations 2007		
r. 11		

7. Local Government (Constitution) Regulations 1998 amended

- (1) This regulation amends the *Local Government (Constitution) Regulations 1998*.
- (2) In Schedule 1 Form 7 delete “*Local Government (Rules of Conduct) Regulations 2007.*” and insert:

code of conduct adopted by the ³ under section 5.104 of the *Local Government Act 1995*.

Schedule 1 — Model code of conduct

[r. 3]

Division 1 — Preliminary provisions

1. Citation

This is the *[insert name of local government] Code of Conduct for Council Members, Committee Members and Candidates*.

2. Terms used

(1) In this code —

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 — General principles

3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. Personal integrity

(1) A council member, committee member or candidate should —

(a) act with reasonable care and diligence; and

(b) act with honesty and integrity; and

(c) act lawfully; and

(d) identify and appropriately manage any conflict of interest; and

(e) avoid damage to the reputation of the local government.

- (2) A council member or committee member should —
- (a) act in accordance with the trust placed in council members and committee members; and
 - (b) participate in decision-making in an honest, fair, impartial and timely manner; and
 - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
 - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

5. Relationship with others

- (1) A council member, committee member or candidate should —
- (a) treat others with respect, courtesy and fairness; and
 - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

6. Accountability

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.

Division 3 — Behaviour

7. Overview of Division

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

8. Personal integrity

(1) A council member, committee member or candidate —

- (a) must ensure that their use of social media and other forms of communication complies with this code; and
- (b) must only publish material that is factually correct.

(2) A council member or committee member —

- (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
- (b) must comply with all policies, procedures and resolutions of the local government.

9. Relationship with others

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local

government employee in connection with the performance of their official duties.

10. Council or committee meetings

When attending a council or committee meeting, a council member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

11. Complaint about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

12. Dealing with complaint

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is

withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.

- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
 - (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
 - (a) engage in mediation;
 - (b) undertake counselling;
 - (c) undertake training;
 - (d) take other action the local government considers appropriate.
- (7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —
 - (a) its finding and the reasons for its finding; and
 - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

13. Dismissal of complaint

- (1) The local government must dismiss a complaint if it is satisfied that —
 - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
 - (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

14. Withdrawal of complaint

- (1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
- (2) The withdrawal of a complaint must be —
 - (a) in writing; and
 - (b) given to a person authorised under clause 11(3).

15. Other provisions about complaints

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

Division 4 — Rules of conduct

Notes for this Division:

1. Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This

extends to the contravention of a rule of conduct that occurred when the council member was a candidate.

2. A minor breach is dealt with by a standards panel under section 5.110 of the Act.

16. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

17. Misuse of local government resources

- (1) In this clause —
electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;
resources of a local government includes —
 - (a) local government property; and
 - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

18. Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
 - (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
 - (b) to cause detriment to the local government or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

19. Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

20. Relationship with local government employees

- (1) In this clause —
local government employee means a person —
 - (a) employed by a local government under section 5.36(1) of the Act; or
 - (b) engaged by a local government under a contract for services.
- (2) A council member or candidate must not —
 - (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
 - (c) act in an abusive or threatening manner towards a local government employee.
- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a local government employee.

- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

21. Disclosure of information

- (1) In this clause —
- closed meeting*** means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
- confidential document*** means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
- document*** includes a part of a document;
- non-confidential document*** means a document that is not a confidential document.
- (2) A council member must not disclose information that the council member —
- (a) derived from a confidential document; or
 - (b) acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information —
- (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

22. Disclosure of interests

- (1) In this clause —
interest —
 - (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
 - (b) includes an interest arising from kinship, friendship or membership of an association.
- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
 - (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
 - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or

- (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

23. Compliance with plan requirement

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.



Notes

This is a compilation of the *Local Government (Model Code of Conduct) Regulations 2021*. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	Commencement
<i>Local Government (Model Code of Conduct) Regulations 2021</i>	SL 2021/15 2 Feb 2021	Pt. 1: 2 Feb 2021 (see r. 2(a)); Regulations other than Pt. 1: 3 Feb 2021 (see r. 2(b) and SL 2021/13 cl. 2)

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
Act.....	Sch. 1 cl. 2(1)
candidate	Sch. 1 cl. 2(1)
closed meeting	Sch. 1 cl. 21(1)
complaint	Sch. 1 cl. 2(1)
confidential document.....	Sch. 1 cl. 21(1)
document.....	Sch. 1 cl. 21(1)
electoral purpose	Sch. 1 cl. 17(1)
interest.....	Sch. 1 cl. 22(1)
local government employee	Sch. 1 cl. 20(1)
non-confidential document	Sch. 1 cl. 21(1)
publish.....	Sch. 1 cl. 2(1)
resources of a local government.....	Sch. 1 cl. 17(1)



Code of Conduct
for Council Members,
Committee Members and
Candidates

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20 JULY 2021 - ATTACHMENT 9.3.1b

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Shire of Denmark Code of Conduct

for Council Members, Committee Members and Candidates

Policy Purpose:

This Policy is adopted in accordance with section 5.104 of the *Local Government Act 1995*.

Division 1 — Preliminary provisions

1. Citation

This is the *Shire of Denmark's* Code of Conduct for Council Members, Committee Members and Candidates.

2. Terms used

(1) In this code —

Act means the Local Government Act 1995;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 — General principles

3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. Personal integrity

(1) A council member, committee member or candidate should —

- (a) act with reasonable care and diligence; and
- (b) act with honesty and integrity; and
- (c) act lawfully; and
- (d) identify and appropriately manage any conflict of interest; and
- (e) avoid damage to the reputation of the local government.

(2) A council member or committee member should —

- (a) act in accordance with the trust placed in council members and committee members; and

- (b) participate in decision making in an honest, fair, impartial and timely manner; and
- (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
- (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

5. Relationship with others

- (1) A council member, committee member or candidate should —
 - (a) treat others with respect, courtesy and fairness; and
 - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

6. Accountability

- A council member or committee member should —
- (a) base decisions on relevant and factually correct information; and
 - (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
 - (c) read all agenda papers given to them in relation to council or committee meetings; and
 - (d) be open and accountable to, and represent, the community in the district.

Division 3 — Behaviour

7. Overview of Division

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

8. Personal integrity

- (1) A council member, committee member or candidate —
 - (a) must ensure that their use of social media and other forms of communication complies with this code; and
 - (b) must only publish material that is factually correct.

- (2) A council member or committee member —
- (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
 - (b) must comply with all policies, procedures and resolutions of the local government.

9. Relationship with others

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.

10. Council or committee meetings

When attending a council or committee meeting, a council member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

11. Complaint about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and

- (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

12. Dealing with complaint

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.
- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
- (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
- (a) engage in mediation;
 - (b) undertake counselling;
 - (c) undertake training;
 - (d) take other action the local government considers appropriate.
- (7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —
- (a) its finding and the reasons for its finding; and
 - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

13. Dismissal of complaint

- (1) The local government must dismiss a complaint if it is satisfied that —
- (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
 - (b) either —

- (i) the behaviour was dealt with by the person presiding at the meeting;
or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

14. Withdrawal of complaint

- (1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
- (2) The withdrawal of a complaint must be —
 - (a) in writing; and
 - (b) given to a person authorised under clause 11(3).

15. Other provisions about complaints

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

Division 4 — Rules of conduct

Notes for this Division:

- 1. *Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This extends to the contravention of a rule of conduct that occurred when the council member was a candidate.*
- 2. *A minor breach is dealt with by a standards panel under section 5.110 of the Act.*

16. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

17. Misuse of local government resources

- (1) In this clause —

electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;

resources of a local government includes —

- (a) local government property; and
 - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

18. Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
- (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
 - (b) to cause detriment to the local government or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

19. Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

20. Relationship with local government employees

- (1) In this clause —
- local government employee** means a person —
- (a) employed by a local government under section 5.36(1) of the Act; or
 - (b) engaged by a local government under a contract for services.
- (2) A council member or candidate must not —
- (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
 - (c) act in an abusive or threatening manner towards a local government employee.
- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —

- (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a local government employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

21. Disclosure of information

- (1) In this clause —

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;

document includes a part of a document;

non confidential document means a document that is not a confidential document.

- (2) A council member must not disclose information that the council member —

- (a) derived from a confidential document; or
- (b) acquired at a closed meeting other than information derived from a non confidential document.

- (3) Subclause (2) does not prevent a council member from disclosing information —

- (a) at a closed meeting; or
- (b) to the extent specified by the council and subject to such other conditions as the council determines; or
- (c) that is already in the public domain; or
- (d) to an officer of the Department; or
- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

22. Disclosure of interests

- (1) In this clause —

interest —

- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
- (b) includes an interest arising from kinship, friendship or membership of an association.

- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
 - (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
 - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

23. Compliance with plan requirement

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.

Version Control

Version	Date adopted by Council	Resolution Number
Revision: 1	XXX	XXX



Code of Conduct Behaviour Complaints Management Policy

for Council Members, Committee Members and Candidates

20 JULY 2021 - ATTACHMENT 9.3.1c

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Policy Objective

To establish, in accordance with Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Shire of Denmark's Code of Conduct for Council Members, Committee Members and Candidates.

To give effect to the Shire of Denmark's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

Policy Scope

This Policy applies to complaints made in accordance with Clause 11 of the Shire of Denmark's Code of Conduct for Council Members, Committee Members and Candidates.

This Policy applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

Definitions

Act means the *Local Government Act 1995*.

Behaviour Complaints Committee means the Committee established by the Council in accordance with s.5.8 of the Act for the purpose of dealing with complaints. The role of the Behaviour Complaints Committee is outlined in Part 2.3 of this Policy.

Behaviour Complaints Officer means a person authorised in writing under clause 11(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.

Breach means a breach of Division 3 of the Shire of Denmark's Code of Conduct for Council Members, Committee Members and Candidates.

Candidate means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act, but does not include a Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

Candidate Complaint means a Complaint alleging a Breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

Code of Conduct means the Shire of Denmark's Code of Conduct for Council Members, Committee Members and Candidates.

Committee means a committee of Council, established in accordance with s.5.8 of the Act.

Committee Member means a Council Member, employee of the Shire of Denmark's or other person who has been appointed by the Council to be a member of a Committee, in accordance

with s.5.10(1) of the Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

Complaint means a complaint submitted under Clause 11 of the Code of Conduct.

Complainant means a person who has submitted a Complaint in accordance with this Policy.

Complaint Documents means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

Complaint Form means the form approved under clause 11(2)(a) of the Code of Conduct [*by Council resolution or by the CEO exercising delegated authority*].

Council means the Council of the Shire of Denmark.

Council or Committee Meeting means a formal meeting of the Council or a Committee that is called and convened in accordance with the Act. It does not include informal meetings, such as workshops or briefings.

Council Member means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.

Finding means a finding made in accordance with clause 12(1) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

Plan means a Plan that may be prepared and implemented under clause 12(4)(b) of the Code of Conduct, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.

Response Documents means the response provided by the Respondent to the Complaint, and includes any supporting information or evidence that is supplied.

Policy Statement

1. Principles

1.1. Procedural fairness

The principles of procedural fairness, or natural justice, will apply when dealing with a Complaint under this Policy. In particular:

- the Respondent will be afforded a reasonable opportunity to be heard before any findings are made, or a plan implemented;
- the decision maker should be objective and impartial, with an absence of bias or the perception of bias; and
- any findings made will be based on proper and genuine consideration of the evidence.

1.2. Consistency

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each complaint considered and determined on its merits, similar circumstances will result in similar decisions.

1.3. Confidentiality

The Shire of Denmark will take all reasonable steps to maintain confidentiality when dealing with the complaint, in order to protect both the Complainant and Respondent.

Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely, and must not disclose or inappropriately use this information.

Complainants will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the progress of their Complaint.

In order to allow the Respondent to understand and respond to the complaint against them, the name of the Complainant will be provided to the Respondent, unless the Complainant provides reasons this should not occur.

The Complainant's contact information will not be provided to the Respondent.

The Complainant's name and contact information will not be included in any publicly available documents such as meeting agenda or minutes.

The Complainant should be aware that Complaint Documents may be subject to a Freedom of Information (FOI) request, noting that they must be consulted before any documents are released, any exemptions may apply.

1.4. Accessibility

The Shire of Denmark will ensure that information on how to make a complaint, including this Policy, is available at the Shire of Denmark's Administration Building and on the Shire of Denmark's website. The Shire of Denmark will make information available in alternative formats if requested.

Any person wishing to make a complaint may contact the Behaviour Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

2. Roles

2.1. Behaviour Complaints Officer

The Behaviour Complaints Officer is authorised in accordance with clause 11(3) of the Code of Conduct to accept complaints and withdrawal of complaints.

The Behaviour Complaints Officer is not an advocate for the complainant or the respondent. The Behaviour Complaints Officer provides procedural information and assistance to both Complainant and Respondent.

The Behaviour Complaints Officer will liaise with and provide administrative support to a Behaviour Complaints Committee, including the calling and convening of meetings if required.

2.2. Behaviour Complaints Committee

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the Act for the purpose of dealing with Complaints.

The Behaviour Complaints Committee is a Committee of Council Members only. The membership, purpose and Term of Reference of the Behaviour Complaints Committee is outlined in the Committee Charter.

3. Procedure

3.1. Making a Complaint

A complaint must be made by completing the Behaviour Complaint Form in full, specifying which requirement(s) of the Code of Conduct is alleged to have been breached and providing the completed forms, and any supporting documentation, to the Behaviour Complaints Officer.

Anonymous complaints cannot be accepted.

Further information may be requested from the Complainant by the Behaviour Complaints Officer in order for the complaint to be progressed.

3.2. Candidate Complaints

A complaint in relation to a Candidate must be made in accordance with 3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.

Within 7 days after receiving a Candidate Complaint, the Behaviour Complaints Officer will provide written notice:

- To the Complainant confirming receipt, and advising of the procedure for candidate complaints; and
- To the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.

No action will be taken until the results of the election are declared by the Returning Officer. If the respondent is elected, then the complaint will be dealt with in accordance with this Policy.

Timeframes that would otherwise commence on the receipt of a complaint will be taken to commence on the election date.

If the Respondent is not elected, the Behaviour Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the complaint cannot be dealt with.

3.3. Withdrawing a Complaint

A Complainant may withdraw a complaint by advising the Behaviour Complaints Officer in writing that they wish to do so.

After receiving a written withdrawal of a complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

3.4. Notice to Complainant

Within 7 days after receiving a complaint, the Behaviour Complaints Officer will provide written notice to the Complainant that:

- confirms receipt of the complaint;
- outlines the process that will be followed and possible outcomes;
- explains the application of confidentiality to the complaint;
- includes a copy of this Policy; and
- if necessary, seeks clarifications or additional information.

If the Complaint Form indicates that the Complainant agrees to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will advise the Complainant of the process in accordance with Part 3.6 of this Policy.

3.5. Notice to Respondent

Within 14 days after receiving a complaint, the Behaviour Complaints Officer will provide written notice to the Respondent that:

- advises that a complaint has been made in accordance with the Code of Conduct and this Policy;

- includes a copy of the complaint documents;
- outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
- includes a copy of this Policy; and
- if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

If the Complainant has agreed to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 3.6 of this Policy.

3.6. Alternative Dispute Resolution

The Shire of Denmark recognises that Alternative Dispute Resolution may support both parties to reach a mutually satisfactory outcome that resolves the issues giving rise to the complaint. Alternative Dispute Resolution requires the consent of both parties to the complaint and may not be appropriate in all circumstances.

To commence the process, the Behaviour Complaints Officer will, as the first course of action upon receiving a complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution. If both parties agree to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will pause the formal process.

The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the complaint, in accordance with Part 3.3 of this Policy.

Examples of Alternative Dispute Resolution;

- An offer by a Respondent to issue a voluntary apology to the Complainant; or
- Negotiation of an appropriate resolution with the assistance of the Behaviour Complaints Officer.

If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated by the Behaviour Complaints Officer should they deem it to be unproductive.

If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the complaint, the Behaviour Complaints Officer will resume the formal process required under this Policy.

3.7. Order of Complaints

Complaints will normally be dealt with in the order in which they are received.

If more than one complaint is received that relates to the same alleged behaviour, the Behaviour Complaints Officer may decide to progress those complaints concurrently.

3.8. Search of Local Government Records

Any local government records that are identified by the Behaviour Complaints Officer that are deemed to be directly related to the complaint must be provided to the Respondent.

3.9. Assessment of the Complaint

The Behaviour Complaints Officer will undertake an assessment of the complaint in accordance with the process outlined in the Notices given under Part 3.4 and Part 3.5 of this Policy.

The Behaviour Complaints Officer must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions, or drafting the Complaint Report or recommendations.

3.10. Complaint Report

The Behaviour Complaints Officer will prepare a Complaint Report that will:

- outline the process followed, including how the Respondent was provided with an opportunity to be heard;
- include the complaint documents, the response documents and any relevant Shire of Denmark records as attachments; and
- include recommendations on each decision that may be made by the Behaviour Complaints Committee; and
- include reasons for each recommendation, with reference to Part 4 of this Policy.

The Respondent is to be provided a copy of the draft Complaint Report including any recommendations to the Committee and afforded the opportunity to make a submission prior to the Complaint Report being finalised for the Behaviour Complaints Committee's consideration.

If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.

The Complaint Report will be included in an Agenda for a meeting of the Behaviour Complaints Committee as a confidential attachment.

3.11. Behaviour Complaints Committee Meeting

The Agenda will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

The Behaviour Complaints Committee will consider the Complaint Report and attachments and give due regard to the recommendations.

In accordance with Regulation 11(d)(a) of the *Local Government (Administration) Regulations 1996*, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

If the behaviour that is the subject of the complaint is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Committee will determine whether or not to dismiss the complaint in accordance with Clause 13 of the Code of Conduct and Part 4.2 of this Policy.

If the Behaviour Complaints Committee dismisses a complaint, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause 13(2) of the Code of Conduct. This concludes the process for the complaint.

If the complaint is not dismissed, the Behaviour Complaints Committee will consider the complaint and make a Finding as to whether the alleged Breach has or has not occurred, in accordance with clause 12 of the Code of Conduct and Part 4.3 of this Policy.

If the Behaviour Complaints Committee finds that the alleged Breach **did not** occur, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the Finding and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for the complaint.

If the Behaviour Complaints Committee finds that the alleged breach **did** occur, the Committee will decide whether to take no further action in accordance with clause 12(4)(a) of the Code of Conduct or prepare a plan to address the behaviour in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy.

If the Behaviour Complaints Committee decides to take no further action, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for the complaint.

If the Behaviour Complaints Committee decides to prepare a Plan, the Committee will first consult with the Respondent in accordance with clause 12(5) of the Code of Conduct. The Behaviour Complaints Committee will consider any submissions made by the Respondent before preparing and implementing a Plan.

3.12. Compliance with Plan Requirement

The Behaviour Complaints Officer will monitor the actions in timeframes set out in a Plan.

Failure to comply with a requirement included in a Plan is a minor breach under section 5.105(1) of the Act and clause 23 of the Code of Conduct.

The Behaviour Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

4. Decision Making

4.1. Objective and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in Part 1 of this Policy.

4.2. Dismissal

The Behaviour Complaints Committee must dismiss a complaint in accordance with clause 13(1)(a) and (b) of the Code of Conduct if it is satisfied that -

- (a) the behaviour to which the complaint relates occurred at a Council or Committee Meeting; and
- (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting;
 - or

- (ii) the Respondent has taken remedial action in accordance with the Shire of Denmark Standing Orders Local Law.

4.3. Finding

A Finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.

This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 3 of the Code of Conduct.

4.4. Action

In deciding whether to take no further action, or prepare and implement a Plan, the Behaviour Complaints Committee may consider:

- the nature and seriousness of the breach(es);
- the Respondent's submission in relation to the contravention;
- whether the Respondent has breached the Code of Conduct knowingly or carelessly;
- whether the Respondent has breached the Code of Conduct on previous occasions;
- likelihood or not of the Respondent committing further breaches of the Code of Conduct;
- personal circumstances at the time of conduct;
- need to protect the public through general deterrence and maintain public confidence in the local government; and
- any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

4.5. Plan Requirements

The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following:

- engage in mediation;
- undertake counselling;
- undertake training;
- take other action the Behaviour Complaints Committee considers appropriate (eg. an apology).

The proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct.

The Proposed Plan may also outline:

- the actions to be taken to address the behaviour(s);
- who is responsible for the actions;
- any assistance the Shire of Denmark will provide to assist achieve the intent of the Plan; and
- a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

Any administrative arrangements will be managed in accordance with the Shire of Denmark's Continuing Professional Development Policy.

Document Control Box							
Document Responsibilities:							
Owner:	[insert Position Title]			Owner Business Unit:	[insert Unit Title]		
Reviewer:	[insert Position Title]			Decision Maker:	Council		
Compliance Requirements:							
Legislation:	Local Government Act 1995 Local Government (Model Code of Conduct) Regulations 2021						
Other:							
Organisational:							
Document Management:							
Risk Rating:	[low / med / high]	Review Frequency:	[annual / biennial / triennial]	Next Due:	[20##]	Records Ref:	[CP####]
Version #	Decision Reference:		Synopsis:				
1.	[decision date / TRIM Ref]		[brief description of the adoption / changes approved]				
2.							

DRAFT DELEGATION

CODE OF CONDUCT BEHAVIOUR COMPLAINTS

DELEGATION NUMBER	-	D040115
EXPRESS POWER TO DELEGATE	-	Local Government Act 1995 (Section 5.42)
POWER OR DUTY DELEGATED	-	Local Government (Model Rules of Conduct) Regulations 2021
DELEGATE	-	Chief Executive Officer
ACTIVITY	-	Members of Council

The Chief Executive Officer is delegated authority to:

1. Approve a behaviour complaint form, in accordance to Regulation 11(2)(a); and
2. Authorise one or more persons to receive complaints and withdrawals of complaints, in accordance with Regulation 11(3).

RECORDING REQUIREMENTS

Regulation 19 of the Local Government (Administration) Regulations requires that when delegated authority is exercised, evidentiary documents must be kept.

ADDED by Res: **XXX / XXX**

AUTHORISED PERSON(S) For the purpose of Regulation 11(3)	Date appointed by the Chief Executive Officer

Shire of Denmark

Charter



BEVAHIOUR COMPLAINTS COMMITTEE

This Charter document defines the membership, authority, purpose, operational guidelines, responsibilities and resources of the Shire of Denmark Behaviour Complaints Committee.

1.0 NAME

The name of the Committee shall be the Shire of Denmark Behaviour Complaints Committee, hereinafter referred to in its abbreviated form as the Committee, established 15 June 2021.

2.0 ESTABLISHMENT

The Committee is established pursuant to section 5.8 of the Local Government Act 1995.

3.0 DISTRICT

The Committee shall operate within the local government boundaries of the Shire of Denmark.

4.0 GUIDING PRINCIPLES

This Committee is established with the guiding principles in accordance with the Local Government Act 1995, sections 5.8 through to 5.25.

5.0 VISION

To consider any behaviour complaints received in accordance with the Code of Conduct for Council Members, Committee Members and Candidates.

6.0 TERMS OF REFERENCE

The Committee's purpose will be to deal with Behaviour Complaints made under Division 3 of the Shire of Denmark's Code of Conduct for Council Members, Committee Members and Candidates.

The extent of authority is detailed in Item 9 of this Charter, Delegation **No XXX**;

7.0 MEMBERSHIP

Membership of the Committee will be appointed by an absolute majority decision of Council.

Membership of the Committee will comprise a total of 5 members consisting of:

5 x Councillors

8.0 MEETINGS

8.1 Annual General Meeting:

Nil

8.2 Committee Meetings:

Meetings shall be held as required.

8.3 Quorum:

The quorum for any meeting of the Committee is at least 50% of the number of member positions prescribed on the Committee, whether vacant or not.

8.4 Voting:

Shall be in accordance with Sections 5.21 of the Act, with all members of the Committee entitled and required to vote.

8.5 Minutes:

Shall be in accordance with the Act, Section 5.22.

8.6 Presiding Person

The members will elect the Presiding Person and Deputy Presiding Person of the Committee pursuant to the section 5.12 of the Act.

8.7 Who acts if no presiding member?

Shall be in accordance with the section 5.14 of the Act.

8.8 Meetings

Meetings are open to the public pursuant to section 5.23 of the Act as the Committee has delegated functions.

8.9 Public Question Time

Public Question Time shall be held in accordance with the section 5.24 of the Act and Regulations 5, 6 and 7 of the Local Government (Administration) Regulations 1996.

8.10 Members Conduct

Members of the Committee are bound by the:

- provisions of Section 5.65 of the Act relating to disclosure of interest;
- Shire of Denmark Standing Orders Local Law 2000;
- Code of Conduct for Council Members, Committee Members and Candidates.

8.11 Secretary

The Chief Executive Officer or that Officer's nominee will fulfil the role of non-voting secretary who will also be responsible for preparation and distribution of agendas and minutes.

8.12 Meeting Attendance Fees

Nil.

9.0 DELEGATED AUTHORITY OF THE COMMITTEE

Delegation No. D040116.

1. Authority to make a finding as to whether an alleged breach the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [r12 (1) and (3)].

In making any finding the Committee must also determine reasons for the finding [r12(7)].

2. Where a finding is made that a breach has occurred, authority to:
 - a. Take no further action [r12(7)].
 - b. Prepare an implement a plan to address the behaviour of the person to whom the complaint relates [r12(4)(b), (5) and (6)].
3. Authority to dismiss a complaint and if dismissed, the Committee must also determine reasons for the dismissal [r13(1) and (2)].

CONDITIONS

1. The Committee will make decisions in accordance with the principles and specified requirements established in Council Policy XXX Code of Conduct Behaviour Complaints Management.
2. That part of a Committee meeting which deals with a complaint will be held behind closed doors in accordance with s5.23(2)(b) of the Act.
3. The Committee is prohibited from exercising this delegation where a Committee Member in attendance at a Committee meeting is either the complainant or respondent to the complaint subject of a Committee agenda item.

10.0 STRATEGIC ALIGNMENT

The specific tasks and actions undertaken by this committee will assist the Shire of Denmark in achieving the following aspirations and objectives as contained within the Strategic Community Plan;

L5.0 Our Local Government

ASPIRATION: The Shire of Denmark is recognised as a transparent, well governed and effectively management Local Government.

- L5.1 To be high functioning, open, transparent, ethical and responsive.
- L5.4 To be fiscally responsible.

Adopted by Council 15 July 2021 / Resolution No. XXX

DRAFT

DRAFT DELEGATION

CODE OF CONDUCT BEHAVIOUR COMPLAINTS COMMITTEE

DELEGATION NUMBER	-	D040116
EXPRESS POWER TO DELEGATE	-	Local Government Act 1995 (Section 5.16)
POWER OR DUTY DELEGATED	-	Local Government (Model Rules of Conduct) Regulations 2021 Regulation 12 Dealing with a complaint Regulation 13 Dismissal of complaint
DELEGATE	-	Behaviour Complaints Committee
ACTIVITY	-	Members of Council

1. Authority to make a finding as to whether an alleged breach the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur *[r12 (1) and (3)]*.

In making any finding the Committee must also determine reasons for the finding *[r12(7)]*.

2. Where a finding is made that a breach has occurred, authority to:
 - a. Take no further action *[r12(7)]*.
 - b. Prepare an implement a plan to address the behaviour of the person to whom the complaint relates *[r12(4)(b), (5) and (6)]*.
3. Authority to dismiss a complaint and if dismissed, the Committee must also determine reasons for the dismissal *[r13(1) and (2)]*.

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1. The Committee will make decisions in accordance with the principles and specified requirements established in Council Policy XXX Code of Conduct Behaviour Complaints Management.
2. That part of a Committee meeting which deals with a complaint will be held behind closed doors in accordance with s5.23(2)(b) of the Act.
3. The Committee is prohibited from exercising this delegation where a Committee Member in attendance at a Committee meeting is either the complainant or respondent to the complaint subject of a Committee agenda item.

RECORDING REQUIREMENTS

Regulation No 19 of the Local Government (Administration) Regulations requires that when delegated authority is exercised, evidentiary documents must be kept.

ADDED by Res: **XXX / XXX**

DRAFT