



# POLICY MANUAL

## CODE OF CONDUCT

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### **0.2 CODE OF CONDUCT – EMPLOYEES & CONTRACTORS**

Distribution	All employees and contractors
Responsible Officer	Chief Executive Officer
Date adopted	17 March 2021
File Reference	160

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#### **Purpose**

The purpose of this document is sets out general principles and conduct to guide the behaviour of employees and contractors.

#### **Objective**

To ensure employees and contractors have a clear understanding of expected behaviour and conduct.

#### **Scope**

This policy applies to

All employees, directors, contractors performing work at the Shire of Goomalling workplaces or where work is performed (eg a customer's premises).

#### **Standard**

#### **PREAMBLE**

This Code of Conduct provides staff and contractor/s in the Shire of Goomalling with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability.

The Code is complementary to the principles adopted in the *Local Government Act* and regulations which incorporates four fundamental aims to result in:-

- (a) better decision-making by the Shire of Goomalling;
- (b) greater community participation in the decisions and affairs of the Shire of Goomalling;
- (c) greater accountability of the Shire of Goomalling to its community; and
- (d) more efficient and effective Local Government.

This Code provides a guide and a basis of expectations for staff and contractor/s. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

## **STATUTORY ENVIRONMENT**

This Code of Conduct observes statutory requirements of *Section 5.51A of the Local Government Act 1995* and the *Local Government Regulations Amendment (Employee Coded of Conduct) Regulations 2021*.

Staff are to acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with *Local Government Regulations Amendment (Employee Coded of Conduct) Regulations 2021*.

Contractor/s acknowledge that they are subject to the provisions of the Code upon being engaged as a contractor/s and whilst they remain as a contractor/s for the Shire of Goomalling.

## **1. ROLES & RESPONSIBILITIES**

### **1.1 Role of the CEO and Staff**

The CEO is appointed by Council and is the communication link between Councillors and staff.

All other Council staff are responsible to the CEO.

The CEO is responsible to the Council for the implementation of Council policies, decisions and budgeted works, the provision of accurate and timely advice to Council and the efficient administration of the Council.

The role of staff is determined by the functions of the CEO as set out in S 5.41 of the *Local Government Act 1995*: -

*“The CEO’s functions are to —*

- (a) advise the council in relation to the functions of a Local Government under this Act and other written laws;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the Local Government;*
- (e) liaise with the mayor or president on the Local Government affairs and the performance of the Local Government functions;*
- (f) speak on behalf of the Local Government if the mayor or president agrees;*

- (g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- (h) *ensure that records and documents of the Local Government are properly kept for the purposes of this Act and any other written law; and*
- (i) *perform any other function specified or delegated by the Local Government or imposed under this Act or any other written law as a function to be performed by the CEO."*

## **2. CONFLICT AND DISCLOSURE OF INTEREST**

### **2.1 Conflict of Interest**

- (a) Staff and contractor/s will ensure that there is no actual (or perceived) conflict of interest between their personal interests, including those of their immediate family, business partners or close associates, and the impartial fulfillment of their professional duties.
- (b) Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Shire of Goomalling, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- (c) Staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the Shire of Goomalling area or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- (d) Staff who exercise recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- (e) Staff will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti- discriminatory legislation.

### **2.2 Financial Interest**

Staff will adopt the principles of disclosure of financial interest as contained within sections 5.59 – 5.90 of the *Local Government Act 1995*

## 2.3 Disclosure of Interest – Impartiality - Staff

*In this clause "interest" means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.*

- (a) An employee who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the person is required to disclose the nature of any interest the person has in the matter –
  - (i) in a written notice given to the CEO before the meeting; or
  - (ii) at the time the advice is given.
- (b) A requirement described under items (a) and (b) excludes an interest referred to in S 5.60 of the *Local Government Act 1995*.
- (d) A person who is an employee is excused from a requirement made under item (a) to disclose the nature of an interest if -
  - (i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
  - (ii) the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.
- (e) If an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then –
  - (i) before the meeting, the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
  - (ii) immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present.
- (f) If -
  - (i) to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or
  - (ii) a disclosure is made as described in item (d)(ii) at a meeting; or
  - (iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.

### **3. PERSONAL BENEFIT**

#### **3.1 Use of Confidential Information (Rules of Conduct – Reg 6 refers)**

Staff and contractor/s will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person or organisation.

#### **3.2 Intellectual Property**

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Shire of Goomalling upon its creation unless otherwise agreed by separate contract.

#### **3.3 Improper or Undue Influence**

Staff will not take advantage of their position to improperly influence other Councillors or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

Similarly, staff and contractor/s will not take advantage of their position to the detriment of Council, the Shire or other persons.

#### **3.4 Gifts (LGA s5.82)**

All staff must declare:

- (a) A gift worth more than \$300.
- (b) A gift that is one or two or more gifts given to the employee by the same person within a period of six (6) months that are in total worth of \$300.
- (c) Gifts worth \$300 or more are 'prohibited gifts' and simply cannot be accepted.

A gift includes:

*“any disposition of property, or conferral of any other financial benefit, made by one person in favour of another otherwise than by will, without consideration in money or money’s worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel”.*

Employees do not have to declare a notifiable gift if it is:

- (a) Less than \$300.
- (b) Received from a relative as defined by 5.74(1) of the Local Government Act 1995.
- (d) A gift from a statutory authority, government instrumentality or non-profit association for professional training.

## **4. CONDUCT OF STAFF AND CONTRACTOR/S**

### **4.1 Personal Behaviour**

- (a) Staff and contractor/s will:
- (i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
  - (ii) perform their duties impartially and in the best interests of the Shire of Goomalling uninfluenced by fear or favour;
  - (iii) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Shire of Goomalling and its communities and shall be particularly mindful to avoid interference in commercial relationships between developers and objectors or between developers competing for the right to develop.
  - (iv) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
  - (v) always act in accordance with their obligation of fidelity to the Shire of Goomalling and not publicly reflect adversely upon any decision of the Council or Council's management.

### **4.2 Honesty and Integrity**

Staff and contractor/s will:

- (a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- (b) bring to the notice of the Chief Executive Officer any dishonesty or possible dishonesty on the part of any other employee, and in the case of a contractor/s to the employee who is responsible for overseeing their activities.
- (c) be frank and honest in their official dealing with each other.
- (d) Endeavour to resolve serious conflict through initial discussion facilitated by the CEO or, in the event that CEO is too closely involved, an independent impartial person or peer group.

### **4.3 Discrimination**

Staff and contractor/s are required to treat each other and members of the community with respect and observe the requirements of Discrimination and Equal Opportunity legislation by:

- (a) Ensuring the workplace is free from any form of discrimination.
- (b) Applying the philosophy and principles of EEO at all levels of the organisation.
- (c) Ensuring they do not engage in unlawful harassment or bullying in the workplace.

### **4.4 Performance of Duties**

While on duty, staff will give their whole time and attention to the Shire of Goomalling's business and ensure that their work is carried out efficiently,

economically and effectively, and that their standard of work reflects favourably both on them and on the Shire of Goomalling.

#### **4.5 Compliance with Lawful Orders**

- (a) Staff will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.
- (b) Staff will give effect to the lawful policies of the Shire of Goomalling, whether or not they agree with or approve of them.

#### **4.6 Administrative and Management Practices**

Staff will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

#### **4.7 Corporate Obligations**

##### (a) Standard of Dress

Staff are expected to comply with neat and responsible dress standards at all times. Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual staff.

##### (b) Communication and Public Relations

- (i) All aspects of communication by staff (including verbal, written or personal), involving Shire of Goomalling's activities should reflect the standards and objectives of the Shire of Goomalling. Communications should be accurate, polite and professional.
- (ii) Statements to the press on behalf of the Shire will only be made by the President or the CEO, unless the President directs otherwise.

It shall be incumbent on staff when referring a member of the community to their local Councillor over issues that the officer cannot resolve due to current Council policy, that the officer notify the Councillors of the referral and any information that may assist in resolving the issue.

### **5. DEALING WITH COUNCIL PROPERTY**

#### **5.1 Use of Shire of Goomalling Resources**

Staff and contractor/s will:

- (a) be scrupulously honest in their use of the Shire of Goomalling's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- (b) use the Shire of Goomalling resources entrusted to them effectively and economically in the course of their duties; and
- (c) not use the Shire of Goomalling's resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

- (d) Not use Council vehicles for private use unless authorised to do so.
- (e) Foster an awareness of the community's ownership of the Shires natural and built environment.

## **5.2 Travelling and Sustenance Expenses**

Staff will only claim or accept travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies or business of the Shire of Goomalling in accordance with Councils policy and the provisions of the *Local Government Act 1995*.

## **5.3 Access to Information**

Staff will ensure that Councillors are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.

## **5.4 Freedom of Information**

Staff and contractor/s acknowledge that:

- (a) The *Freedom of Information Act 1992* (FOI Act) was introduced to facilitate public access to documents and an application can be made seeking access to any information held by the Shire of Goomalling.
- (b) An object of the FOI Act is to 'make the persons and bodies that are responsible for State and local government more accountable to the public'.
- (c) They are obligated to assist the Shire's CEO and the Shire's Freedom of Information officers in locating documents relevant to an application made under the FOI Act.

# **6. BREACHES AND MISCONDUCT**

Complaints regarding a breach of this Code or of misconduct will be dealt with quickly and fairly in accordance with the principles of procedural fairness and natural justice.

## **6.1 Employees and Contractor/s**

A complaint alleging that an employee or contractor/s has breached this Code shall be made in writing. Complaints regarding:

- (a) An employee, are to be made to the Chief Executive Officer or in the case of a contractor/s to the employee who is responsible for overseeing their activities.
- (b) The Chief Executive Officer is to be made to the President. The complaint will be investigated in a manner that is in accordance with the Shires Complaint Handling Procedure, Public Interest Disclosure Procedures and the principles of natural justice.

## **6.2 Misconduct**

For the purposes of this Code, misconduct is defined in accordance with section 4 of the *Corruption, Crime and Misconduct Act 2003*.



The Chief Executive Officer has a statutory obligation to report to the Corruption and Crime Commission allegations of suspected serious misconduct. Allegations of suspected minor misconduct are dealt with by the Public Sector Commission.

### 6.3 Public Interest Disclosure

The Shire has a public interest disclosure procedure that provides confidential mechanisms for reporting and investigating misconduct allegations or improper conduct and other public interest information in accordance with the *Public Interest Disclosure Act 2003*.

#### Legislation

[Local Government Act 1995](#)

*Local Government Regulations Amendment (Employee Coded of Conduct) Regulations 2021.*

[Corruption, Crime and Misconduct Act 2003](#)

[Public Interest Disclosure Act 2003](#)

[Freedom of Information Act 1992](#)

#### Document Links

**Strategic Community Plan 2018**

Objective 4: Civic Leadership

#### Procedures Manual

Nil

#### Local Law

Nil

#### Delegation

Nil

#### Review History

Version	Review date	Minute no.	Notes
1	March 2021	327. OM 170321	



# POLICY MANUAL

## CODE OF CONDUCT

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<b>0.3</b>	<b>COMPLAINTS POLICY (ALLEGED BREACH)</b>
Distribution	Council members, committee members and candidates
Responsible Officer	Chief Executive Officer
Date adopted	17 March 2021
File Reference	33

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### Objective

The objective of this Policy is to prescribe the processes for the management of complaints involving council members, committee members and candidates in matters relating to breaches of the behaviour requirements in Section 3 of the Code of Conduct.

### Policy scope:

- This Policy is limited to complaints about behaviour breaches by council members, committee members and candidates.
- A person may make a complaint, in accordance with the Code of Conduct, alleging a behaviour breach.

### Standard

#### Appointment of Investigator or Complaints Panel

1. The CEO is to appoint a person with relevant legal knowledge who is not an employee of the Shire, to review and consider one or more Complaints of behaviour breach and to report on the outcome of any investigation to the CEO for provision to the council.
2. As an alternative to appointment of an Investigator, in any case where the CEO considers it appropriate, the CEO may appoint a panel of three persons to perform the function of the Investigator under this Policy. At least one of the number of such a panel must be a person with relevant legal knowledge. Any such panel is to make its decisions by a majority vote and is to appoint one of its number as chair and to perform its consideration and determination on a Complaint in accordance with due process and consistently with the provisions of this Policy.
3. The CEO is to deal with the remuneration of an Investigator or the members of a Complaints Panel, and a complaints mediator, in accordance with clause 17.

## **Process for making a complaint**

1. Initiation of Complaint
  - a) Any person may make a Complaint alleging a behaviour breach.
  - b) A Complaint must be in writing on the Shire's approved form – 'Complaint About Alleged Behaviour Breach form'.
  - c) The complainant must lodge the Complaint with the Shire's Behaviour Complaints Officer.
  - d) The complainant must provide with the Complaint, details of the alleged behaviour breach together with any supporting evidence.
  - e) The Complaint must be lodged within one month of the occurrence of the alleged behaviour breach.
  - f) A Complaint must be submitted by the complainant.
2. A Complaint cannot be submitted anonymously.
3. The Behaviour Complaints Officer is to provide all Complaints to the Investigator in accordance with the following clause.
4. The Behaviour Complaints Officer within 14 days of receiving a Complaint:
  - a) must contact the complainant acknowledging that the Complaint has been received;
  - b) as part of the acknowledgment process, must provide the complainant with a copy of the Shire's Complaints Policy;
  - c) must provide the council or committee member to whom the Complaint relates with a copy of the Complaints Policy and a copy of the Complaint (including the name of the complainant); and
  - d) must send to the Investigator, the Complaint together with details of the alleged breach and any supporting evidence provided by the complainant.
5. Complaints are to be dealt with and considered in an order based on the order in which they are received by the Behaviour Complaints Officer.
6. A Complaint relating to a candidate is only to be referred to an Investigator if and when the candidate is elected as a council member, but in any event the Complaint must be lodged within one month of the occurrence of the alleged behaviour breach.

## **Mediation**

1. The Investigator must offer mediation to both parties as the first option for dealing with a Complaint and before progressing with the consideration or determination of the Complaint.
2. If issues raised in the Complaint are resolved to the satisfaction of both parties in mediation or otherwise before the determination of the Complaint, the complainant must lodge a Withdrawal of Complaint in writing with the Behaviour Complaints Officer.

## Investigator making a determination

1. Before making a determination in relation to a Complaint, the Investigator must provide the council member or committee member to whom the Complaint relates with an opportunity to respond to the allegations in the Complaint and to provide their own comments and evidence for consideration within 14 days of the notification of the Complaint to them by the Behaviour Complaints Officer.
2. After considering a Complaint, the Investigator must make a determination as to whether or not the alleged behaviour breach has occurred.
3. The determination must be made within 21 days:
  - a) from receiving a Complaint from the Behaviour Complaints Officer; or
  - b) from receiving a copy of the response to the allegations by the person to whom the Complaint relates, whichever is the later.
4. A determination by the Investigator that the alleged behaviour 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.
5. Having made a determination on the alleged behaviour breach, the Investigator must inform the Behaviour Complaints Officer by providing a determination and reasons for it in a Determination and Reasons Report (**Report**).
6. The Report must be provided to the Behaviour Complaints Officer within 14 days of making the determination.
7. If the Investigator makes a determination that the alleged breach has occurred, the Report must make a recommendation if further action is required and make a recommendation on the plan to address the behaviour of the person to whom the Complaint relates (**action plan**).
8. The Investigator may recommend to the council to dismiss a Complaint in accordance with clause 13 of the model code, and if the Investigator concludes that the behaviour the subject of the Complaint is an offence under a local law that deals with meeting procedures, the Complaint should not be dealt with further as a behaviour breach, but should be referred back to the Behaviour Complaints Officer.
9. The Investigator's deliberations and determination are to be confidential and reported only to the Behaviour Complaints Officer, but subject to any consultation with the person to whom the Complaint relates under the following clause.

### **Action plans**

1. When preparing an action plan under clause 7.7 of this Policy, the Investigator must consult with the person to whom the Complaint relates. The member must be provided with the opportunity to be involved in matters such as the timing of meetings or training.
2. An action plan may include a requirement for the person to whom the Complaint relates to do one or more of the following –
  - a) Engage in mediation;
  - b) Undertake counselling;
  - c) Undertake training; or
  - d) Take other action the local government considers appropriate.
3. An action plan should be designed to provide the member with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives. The plan should outline:
  - a) the behaviour(s) of concern;
  - b) the actions to be taken to address the behaviour(s);
  - c) who is responsible for the actions; and
  - d) an agreed timeframe for the actions to be completed.

### **Report provided to council**

1. The Behaviour Complaints Officer must provide a confidential report to council including:
  - a) a copy of the Complaint;
  - b) the Report of the Investigator together with the evidence received by the Investigator and any submissions or other communications from the parties;
  - c) a recommendation on the question whether or not a behaviour breach has occurred;
  - d) a recommendation as to whether any and if so what further action is required; and
  - e) if further action is required, a recommendation must be provided to the council on an action plan to address the behaviour of the person to whom the Complaint relates.

### **Council finding**

1. The council must not make a finding that a behaviour breach has occurred without first having given the person to whom the Complaint relates a reasonable opportunity to be heard.
2. A finding that the alleged behaviour 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.
3. If the council makes a finding that the alleged breach has occurred, it may resolve to –
  - a) take no further action; or
  - b) prepare and implement an action plan recommended by the Investigator with or without modifications as it thinks fit.

4. Based on the Investigator's Report, the evidence and any further comments or submissions by the parties, the council may:
  - a) dismiss the Complaint in accordance with clause 13 of this Policy; or
  - b) find that the alleged breach has occurred; or
  - c) find that the alleged breach has not occurred; or
  - d) if the finding is that the breach has occurred, decide that no further action is required; or
  - e) if the finding is that a breach has occurred, decide that further action is required and consider the adoption of an action plan; or
  - f) adopt an action plan to address the behaviour of the person to whom the Complaint relates.
  
5. If the council makes a finding that the alleged breach has occurred, it must give reasons for that finding.

#### **Behaviour Complaints Officer acting on council finding**

When the council makes a finding in relation to a Complaint, the Behaviour Complaints Officer must give the complainant and the person to whom the Complaint relates written notice of –

1. the finding and the reasons for the finding; and
2. if the finding is that the alleged breach has occurred, council's decision on the course of action to be taken including the options in clause 8.2 above.

#### **Confidentiality of Complaints**

The fact of a Complaint having been made and the details of a Complaint and the processes undertaken in connection with a Complaint including the referral to an Investigator are confidential matters and should not be disclosed unless and until the council has made a formal finding of breach in respect of the Complaint.

#### **Dismissal of Complaint**

1. The council must dismiss a Complaint where:
  - a) the behaviour occurred at a council or committee meeting and the behaviour was dealt with at that 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 the local law of the local government that deals with meeting procedures.
2. In any event behaviour that is an offence under a local law that deals with meeting procedures cannot be dealt with as a behaviour breach.

### **Withdrawal of Complaint**

1. A complainant may withdraw their Complaint any time before it is considered by the council.
2. The withdrawal of a Complaint must be –
  - a. in writing; and
  - b. given to the Behaviour Complaints Officer.

### **Compliance with plan requirement**

1. The Behaviour Complaints Officer is to monitor the actions in timeframes set out in an action plan.
2. If an action plan includes any of the requirements in clause 8.2 above (i.e. in clause 12.6 of the model code), failure to comply with that requirement is a breach of clause 23 of the model code and as a breach of the Rules of Conduct is a minor breach under section 5.105(1) of the LG Act.

### **Complaints that are inappropriate under this Policy**

The purpose of the Town's Code of Conduct is to guide the decisions, actions and behaviours of council members, committee members, and of candidates running for election as a council member. A breach of the Rules of Conduct is a minor breach under section 5.105(1) of the LG Act, and is not the intended subject of this Policy. The objective of this Policy is to deal with matters relating to breaches of the behaviour requirements in Division 3 of the Code of Conduct, and all Complaints under this Policy should be made with that objective in mind. Consequently, Complaints such as the following are inappropriate to be dealt with under this Policy:

- a) Complaints made with the intent of addressing personal grievances or disagreements;
- b) Complaints made to express dissatisfaction with a council or committee member's lawfully made decisions or performance of their role;
- c) Minor breaches under section 5.105(1) of the LG Act;
- d) Serious breaches under section 5.114 of the LG Act; and
- e) Allegations of corruption.

### **Cost in the complaints process**

1. No fee is charged to lodge a Complaint under this Policy.
2. The Investigator or the members of a Complaints Panel, or a mediator, appointed pursuant to the Policy may charge the Shire a fee to cover the costs of dealing with the Complaint whether or not a breach is ultimately found.
3. Any fee charged by an Investigator or the members of a Complaints Panel, or a mediator, is to be based on the time spent in connection with the Complaint and may be established in advance on a quotation or otherwise in accordance with the Town's purchasing policy.

## **Policy definitions:**

In this Policy –

**behaviour breach** means a breach of a behaviour requirement in Section 3 of the Code of Conduct.

**Behaviour Complaints Officer** means a person authorised in writing by the council, or by the CEO exercising authority delegated by the council, to receive complaints and withdrawals of complaints under clause 10 of the Code of Conduct, and the person so authorised in writing may be the same person as the Shire's complaints officer under section 5.120 of the *Local Government Act 1995* (WA) (**LG Act**).

**candidate** - an individual is considered a candidate when their nomination for election is accepted by a Returning Officer under section 4.49 of the LG Act. The Code of Conduct applies to the candidate from that point. Any alleged behaviour breach may only be dealt with if and when the candidate is elected as a council member.

**committee member** - includes any council member, local government employee or unelected member of the community, in any of those cases, who has been appointed by the council to be a member of a council committee.

**complainant** means a person complaining of a behaviour breach by a council or committee member of the Town or a candidate.

**Complaint** means a complaint made under clause 11(1) of the Code of Conduct.

**Complaints Panel** means a panel of persons appointed under clause 4.2 to consider and determine Complaints, as an alternative to appointment of an Investigator.

**council member** means an individual who has been elected as a council member under the LG Act. This Policy also applies to a council member who is a committee member on a council committee.

**evidence** means the available facts or information which go to indicate whether or not an allegation of a breach is true or valid. Local governments must use evidence provided by the complainant and by the person to whom the complaint relates, as well as any other available evidence, to decide whether a breach has occurred.

**Investigator** means a person appointed as Investigator under clause 4.1 of this Policy.

**Report** means the report for the council of the outcome of the investigation of a Complaint dealing with the following:

- (1) whether or not the Investigator considers that the behaviour breach the subject of the Complaint has occurred;
- (2) the evidence relied on by the Investigator under clause 12(3) of the model code for that conclusion; and
- (3) a recommendation as to whether no further action should be taken on the Complaint, or as to the terms of a plan under clause 12(4)(b) of the model code.



Other terms used in this Policy that are also used in the LG Act have the same meanings as they have in the Act unless the contrary intention appears.

## Legislation

[Local Government Act 1995](#) (WA)

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

## Related documents

[Complaint Form – Alleged Breach](#)

### Strategic Community Plan

Nil

### Procedures Manual

Nil

### Local Law

Nil

## Delegation

Nil

## Review History

Version	Review date	Minute no.	Notes
1	March 2021	332. OM 170321	New policy