



POLICY NO:-

CP1-019 – ELECTED MEMBER CODE OF CONDUCT BEHAVIOUR COMPLAINTS MANAGEMENT PROCESS

GOVERNANCE INFORMATION

Procedure Link:	N/A	Administrative Policy Link:	
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ADMINISTRATION INFORMATION

History	1	CP1-019	OCM 12/08/25 Res: 9631	Synopsis:	Policy created.
Version:	2	CP1-019	OCM 8/0926 Res 9830	Synopsis:	Amendments following changes to the <i>Local Government (Model Code of Conduct) Regulations 2021</i>

1. RESPONSIBLE DIRECTORATE

Chief Executive Officer

2. PURPOSE OR OBJECTIVE

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

This policy gives effect to the Shire'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, and ensures that a Complaint received in relation to an alleged breach is managed on the basis of –

- Confidentiality
- Timeliness
- Natural justice and due process
- Fairness and impartiality

3. SCOPE

This Policy applies to complaints made in accordance with Clause 11 of the Shire of Collie Code of Conduct for Council Members, Committee Members and Candidates and applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

This Policy governs the handling, assessment and determination of behaviour complaints by Council, or an authorised independent person in accordance with clause 14B of the Regulations, and any Council authorisation.

This Policy does not apply to conduct or specified breaches, which are dealt with by the Office of the Local Government Inspector under the *Local Government Act 1995*, the *Local Government (Model Code of Conduct) Regulations 2021* and *Local Government (Local Government Inspector) Regulations 2025*.

4. DEFINITIONS

Act means the *Local Government Act 1995*.

Authorised Complaint Assessor means a person appointed by Council in accordance clause 14B of the Regulations.

Behaviour Complaints Officer means a person authorised 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 5.2.1 of this Policy. The Shire of Collie Behaviour Compliance Officer is the Chief Executive Officer.

Breach means a breach of Division 3 of the Shire of Collie 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 5.3.2 of this Policy.

Code of Conduct means the Shire of Collie 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 Collie 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.

Council means the Council of the Shire of Collie.

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.

Regulations means the *Local Government (Model Code of Conduct) Regulations 2021*.

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

5. POLICY

5.1 Principles

5.1.1 Procedural fairness

The principles of procedural fairness and natural justice will apply when dealing with a Division 3 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.

5.1.2 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.

5.1.3 Confidentiality

The Shire of Collie 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 assessors 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.

5.1.4 Accessibility

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

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

5.2 Roles

5.2.1 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:

- Receives and assess complaints for procedural compliance
- Manages all administrative aspects of the complaint
- Facilitates communication between the parties
- Refers complaints to an Authorised Complaint Assessor, where an Authorised Complaint Assessor has been authorised by Council
- Provides administrative support to Council to enable them to make a determination on the Complaint.

5.2.2 Authorised Complaint Assessor

In accordance with clause 14B of the Code of Conduct, Council may authorise a person, by absolute majority, to assist with any of the following functions in accordance with clauses 12 and 13 of the Code of Conduct including:

- Investigating the complaint
- Gathering and reviewing relevant evidence
- Ensuring the respondent is provided a reasonable opportunity to be heard
- Applying the principles of procedural fairness
- Preparing a report with recommended findings.

Clause 14B identifies persons who are ineligible to perform the function for and on behalf of the local government and sets out the requirements for any resolution of Council to appoint a person to perform the function.

5.2.3 Referral to Local Government Inspector

If a Council Member has had two or more behavioural breach findings made against them on or after 1 January 2026 under the Shire's Code of Conduct, any subsequent complaint that may constitute a behavioural breach must be referred to the Local Government Inspector for consideration as a potential conduct breach complaint in accordance with s.8A.12 of the Act and r.6(2) of the *Local Government (Local Government Inspector) Regulations 2025*.

5.3 Complaint process

5.3.1 Making a complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Code of Conduct [*clause 11(1) of the Code of Conduct*].

A Complaint must be made within one (1) month after the alleged Breach [*clause 11(2)(c) of the Code of Conduct*]. Where a Complaint is made more than 1 month after the alleged breach, the Behaviour Complaints Officer will give the Complainant written notice that the Complaint cannot be made [*clause 11(2)(c) of the Code of Conduct*].

A Complaint must be made by completing the Behaviour Complaint Form in full and providing the completed forms to the Behaviour Complaints Officer.

A Complaint must be made in accordance with the Behaviour Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached.

A Complaint is required to include the name and contact details of the Complainant therefore anonymous complaints cannot be accepted. Where a Complaint Form omits required details, the Behaviour Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

Save where this Policy otherwise provides, a Complaint will usually be determined by reference to the information provided by the Complainant and the Respondent.

A Complaint must:

- Be specific (including identifying the provisions of the Code of Conduct which the complainant alleges have been breached).
- Provide as much supporting evidence as possible to assist an investigation (including the grounds and circumstances of the Complaint). This may include Statutory Declarations and witness statements.
- Provide the name of the Council Member, Committee Member or Candidate who has allegedly breached the Code of Conduct.
- Provide the name and contact details of the complainant and the name and contact details of the person submitting the complaint (if different to the complainant).

5.3.2 Candidate Complaints

A Complaint in relation to a Candidate must be made in accordance with 5.3.1, 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 *[clause 15(1) of the Code of Conduct]*.

5.3.3 Withdrawing a Complaint

A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint *[clause 14 of the Code of Conduct]*.

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 the Complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

5.3.4 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.

5.3.5 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.

5.3.6 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.

5.3.7 Assessment of the Complaint

The Behaviour Complaints Officer receives the complaint and assesses it for compliance with the requirements of the Code of Conduct, including whether the complaint has been lodged within one month of the alleged behaviour Complaint *[clause 11(2) of the Code of Conduct]*.

Where a complaint is valid, the Behaviour Complaints Officer is to determine whether the complaint is required to be referred to the Local Government Inspector under clause 11(5) of the Regulations or to Council. If the complaint is to be referred to the Inspector, the Officer must refer the complaint to the Inspector accordingly, and no further action is to be taken by the Shire or Council unless directed by the Inspector.

Where the complaint is to be assessed by Council, the Behaviour Complaints Officer will prepare an Officer's Report to Council.

The report will:

- outline the process followed, including how the Respondent was provided with an opportunity to respond; and
- include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments.

5.3.8 Complaint Determination Meeting

The Council 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 of the Act.

The Council will consider the Officer's Report and attachments.

If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, the Council will determine whether or not to dismiss the Complaint in accordance with Clause 13 of the Code of Conduct and Part 5.4.2 of this Policy.

If the Council, 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 this Complaint.

If the Complaint is not dismissed, the Council will consider the Complaint and determine whether to:

- a) deal with the Complaint; or
- b) authorise a person, in accordance with clause 14B of the Code of Conduct to act as an Authorised Complaint Assessor for the purpose of investigating the Complaint and providing further information to assist Council in making a determination.

Following consideration of the Officer's Report and any further information requested, Council will make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause 12 of the Code of Conduct and Part 5.4.3 of this Policy.

If the Council, 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 this Complaint.

If the Council finds that the alleged breach **did** occur, the Council 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 5.4.4 of this Policy.

If the Council 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 this Complaint.

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

5.3.9 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 the Council of any failure to comply with a requirement included in a Plan.

5.4 Decision Making

5.4.1 Objectives and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in Part 5.5.1 of this Policy.

5.4.2 Dismissal

The Council 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 Collie Standing Orders Local Law 2017.

5.4.3 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 [*clause 12(3) of the Code of Conduct*].

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.

5.4.4 Action

In deciding whether to take no further action, or prepare and implement a Plan, the Council 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 Local Government; and
- any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

5.4.5 Plan Requirement

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 Complaints Committee considers appropriate (e.g. 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 Local Government 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.

5. REFERENCE DOCUMENTS

Local Government Act 1995 – Section 5.104 Adoption of model code of conduct:

Local Government Act 1995 – Section 5.105 Breaches by council members

Local Government (Model Code of Conduct) Regulations 2021

Shire of Collie Code of Conduct for Council Members, Committee Members and Candidates.

Local Government Inspector Guidelines

Local Government (Local Government Inspector) Regulations 2025