

Council Policy

Council Member Conduct (including
Mandatory Code of Conduct for
Council Members)



COUNCIL POLICY

 <p style="font-size: small; margin: 0;">ADELAIDE HILLS COUNCIL</p>	<h2 style="margin: 0;">COUNCIL MEMBER CONDUCT</h2>
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Policy Number:	CM-04
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COUNCIL MEMBER CONDUCT

1. INTRODUCTION

On 29 August 2013, in accordance with Regulation 6A of the Local Government (General) Regulations 1999, the Minister for Planning published the Code of Conduct for Council Members. On 1 September 2013, the Code of Conduct for Council Members was made by Regulation.

The Code contains provisions for the handling of complaints under Part 2 and requires Council to adopt a process for the handling of alleged breaches under that Part.

Adelaide Hills Council Members acknowledge their obligations to comply with the requirements of the Code of Conduct and consider that it represents a set of minimum standards that all Members must comply with. Adelaide Hills Council Members wish to provide for an additional agreed set of behavioural principles and standards to complement and confirm the requirements of the Code of Conduct, and have adopted a suite of AHC Behavioural Standards for that purpose.

Alleged breaches of the AHC Behavioural Standards will also be managed in accordance with the process established to respond to Part 2 of the Code of Conduct.

2. SCOPE

Section 63(2) of the *Local Government Act 1999* provides that Council Members of councils must observe the Code of Conduct.

The AHC Behavioural Standards apply to Members of Adelaide Hills Council in accordance with the requirement of clause 2.6 of the Code of Conduct which requires Council Members to comply with all Council policies, codes and resolutions.

3. POLICY ELEMENTS

The published Code of Conduct for Council Members is at Attachment A.
The AHC Behavioural Standards are at Attachment B.
The Code of Conduct Complaint Handling Procedure is at Attachment C.

4. FURTHER INFORMATION

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.ahc.sa.gov.au.

Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

The AHC Behavioural Standards and the Code of Conduct Complaint Handling Procedure will be reviewed within 12 months after a general Local Government election.

Council may, at any time, alter the AHC Behavioural Standards Code and/or the Code of Conduct Complaint Handling Procedure.

ATTACHMENT A**CODE OF CONDUCT FOR COUNCIL MEMBERS**

Published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999.

This Code of Conduct is to be observed by all Council members.

Council members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

PART 1 PRINCIPLES**1. Higher principles—Overarching Statement**

This part does not constitute separate enforceable standards of conduct.

Council members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist members to meet their responsibilities under the Local Government Act 1999.

Council members will comply with all legislative requirements of their role and abide by this Code of Conduct.

PART 2 BEHAVIOURAL CODE

2. Behavioural Code

In line with 'Part 1 - Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council members that does not meet the reasonable community expectations of the conduct of Council members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election.

Council members must:

General behaviour

- 2.1 Show commitment and discharge duties conscientiously.
- 2.2 Act in a way that generates community trust and confidence in the Council.
- 2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
- 2.4 Show respect for others if making comments publicly.
- 2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.

Responsibilities as a member of Council

- 2.6 Comply with all Council policies, codes and resolutions.
- 2.7 Deal with information received in their capacity as Council members in a responsible manner.
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.

Relationship with fellow Council Members

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council members.

Relationship with Council staff

- 2.11 Not bully or harass Council staff.
- 2.12 Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
- 2.13 Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
- 2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

Requirement to report breach of Part 3

- 2.15 A Council member who is of the opinion that a breach of Part 3 of this Code (Misconduct)— has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 2.16 A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

Complaints

- 2.17 Any person may make a complaint about a Council member under the Behavioural Code.
- 2.18 Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.
- 2.19 A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.
- 2.20 A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.
- 2.21 A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.
- 2.22 A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.
- 2.23 Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 2.24 A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

Findings

- 2.25 If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:
- 2.25.1 Take no action;
 - 2.25.2 Pass a censure motion in respect of the Council member;
 - 2.25.3 Request a public apology, whether written or verbal;
 - 2.25.4 Request the Council member to attend training on the specific topic found to have been breached;
 - 2.25.5 Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);
 - 2.25.6 Request the member to repay monies to the Council.

PART 3 MISCONDUCT**3. Misconduct**

Failure by a Council member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the Local Government Act 1999. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under Section 263 of the Local Government Act 1999, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Council member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions, that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

Member duties

Council members must:

- 3.1 Act honestly at all times in the performance and discharge of their official functions and duties;
- 3.2 Perform and discharge their official functions and duties with reasonable care and diligence at all times;
- 3.3 Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence;

- 3.4 Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
- 3.5 Not attempt to improperly direct a member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;
- 3.6 Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

Gifts and benefits

- 3.7 Council members must not:
 - 3.7.1 Seek gifts or benefits of any kind;
 - 3.7.2 Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
 - 3.7.3 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.
- 3.8 Notwithstanding Code 3.7, Council members may accept campaign donations as provided for in the Local Government (Elections) Act 1999.
- 3.9 Notwithstanding Code 3.7.3, Council members may accept hospitality provided in the context of performing their duties, including:
 - 3.9.1 Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
 - 3.9.1.2 Council work related events such as training, education sessions workshops and conferences;
 - 3.9.1.3 Council functions or events;
 - 3.9.1.4 Social functions organised by groups such as Council committees and community organisations.
 - 3.9.2 Invitations to, and attendance at, local social, cultural or sporting events.
- 3.10 Where Council members receive a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time,, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

Note: The Minister for Planning in the Government Gazette on 18 August 2013 specified the value to be \$100.

Register of Interests

- 3.11 Council members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

Campaign donation returns

- 3.12 Council members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

Conflict of interest

- 3.13 Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the Local Government Act 1999.

Misuse of Council resources

- 3.14 Council members using Council resources must do so effectively and prudently.
- 3.15 Council members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.
- 3.16 Council members must not use public funds or resources in a manner that is irregular or unauthorised.

Repeated or sustained breaches of Part 2

- 3.17 At the discretion of the Council to which the member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.
- 3.18 A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

APPENDIX—CRIMINAL MATTERS

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999**Member duties**

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (3)).

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (4)).

Provision of false information

A member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the Local Government Act 1999, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 69).

Restrictions on publication of information from Register of Interests

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (Section 71).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by Section 5 of the Independent Commissioner Against Corruption Act 2012, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- conspiring with others to effect the commission of the offence.

ATTACHMENT B

ADELAIDE HILLS COUNCIL MEMBER BEHAVIOURAL STANDARDS

1. INTRODUCTION

- 1.1 Adelaide Hills Council Members acknowledge their obligations to comply with the requirements of the prescribed Code of Conduct. Adelaide Hills Council Members consider that the Code of Conduct represents a set of minimum standards that all Members must comply with. Adelaide Hills Council Members wish to provide an additional agreed set of behavioural principles and standards to complement and confirm the requirements of the Code of Conduct, and have adopted these Standards for that purpose.
- 1.2 The behavioural standards outlined in this document apply to members of Adelaide Hills Council in addition to the standards prescribed in the Code of Conduct, the *Local Government Act 1999* and other relevant Acts and Regulations applicable to Members in the performance of their role, responsibilities, functions and duties.

2. Part 1: Higher Principles of Member Behaviour

- 2.1 In addition to the principles outlined in Part 1 of the Code of Conduct, the Members of Adelaide Hills Council have adopted the following additional higher principles of Member behaviour. While these principles do not constitute a standard of separate, enforceable conduct, they do represent the adopted values that Members of Adelaide Hills Council are expected to observe. The additional higher principles are to be read and applied in conjunction with those principles set out in the Code of Conduct.
- 2.2 These principles of expected and agreed behaviour of the Adelaide Hills Council Members are as follows:
- To act fairly and with integrity.
 - To lead by example in working with others to achieve agreed goals in the Adelaide Hills Council Strategic Plan.
 - To communicate clearly, constructively and directly with others in a regular and timely manner.
 - To act in a manner that is respectful, non-discriminatory, fair and that is not aggressive or intimidating.
 - To demonstrate respect for individuals, Council and other Members.
 - To encourage and listen attentively to the opinions and advice of the community, Council staff and other Members and to respond in a manner which best considers the interests of all stakeholders.
 - To be open, flexible and adaptable to change.
 - To demonstrate teamwork and collaboration with Council staff, other Members and the community.
 - To contribute and participate constructively, robustly and open-mindedly in Council debates and decision-making processes.

- To be committed to representing the Council in a manner which encourages long-term trust, respect and confidence in Council staff and other Members.
- To be accountable and responsible for their own behaviour and to be willing to acknowledge mistakes.

3. Part 2: Behavioural Code

3.1 In addition to the Behavioural Code requirements outlined in Part 2 of the Code of Conduct, the Members of Adelaide Hills Council have adopted these additional aspirational behavioural standards that Council expects will be observed by all Members.

3.2 For clarity purposes, the requirements of Part 2 of the Code of Conduct are listed alongside the applicable Adelaide Hills Council's Behavioural Standards below.

Behavioural Code in Code of Conduct for Council Members		Adelaide Hills Council Behavioural Standards	
Council members must:		Council members of Adelaide Hills Council will:	
General Behaviour			
2.1	Show commitment and discharge duties conscientiously.	AH1	Act in the long-term best interests of the overall Council area and the community, by balancing the interest of all stakeholders and taking an active interest in local community affairs as well as affairs across the whole Council district.
2.2	Act in a way that generates community trust and confidence in the Council.	AH2	Be objective in reaching Council decisions
2.3	Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.	AH3	Accept the responsibility associated with Council decisions and the collective decision making process.
2.4	Show respect for others if making comments publicly.		
2.5	Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.		
Responsibilities as a member of Council			
2.6	Comply with all Council policies, codes and resolutions.	AH4	Use information received in their capacity as Council members only for the purpose of Council business.

Behavioural Code in Code of Conduct for Council Members	Adelaide Hills Council Behavioural Standards
<p>Council members must:</p> <p>2.7 Deal with information received in their capacity as Council members</p>	<p>Council members of Adelaide Hills Council will:</p> <p>AH5 Follow Council's guidelines for the making of public statements on behalf of Council, as outlined in these Behavioural Standards.</p>
<p>2.8 Endeavour to provide accurate information to the Council and to the public at all times.</p>	<p>AH6 Attend, participate in and aim to facilitate constructive Council, Committee meetings, workshops and advisory groups and apologise or obtain a leave of absence in advance for non-attendance.</p> <p>AH7 Act responsibly in the allocation of and proper and responsible use of Council resources and expenditure.</p> <p>AH8 Be open, approachable and fair in dealings with individuals and organisations and behave in a manner that facilitates constructive and collaborative communication between Council and the community.</p> <p>AH9 Be actively aware of any situation that may create tension between their public and private roles and work towards minimising any tension arising.</p> <p>AH10 Ensure that communication (written, verbal or otherwise) is not offensive or otherwise defamatory to any person.</p>
Relationship with fellow Council members	
<p>2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences or views and opinions</p>	<p>AH11 Use their best endeavours to establish working relationships with fellow Council Members that recognise and respect a diversity of opinion amongst members and actively seek to achieve the best possible outcomes for the community.</p>
<p>2.10 Not bully or harass other Council members</p>	<p>AH12 Promote behaviours with fellow Council Members that are conducive to establishing mature and constructive working relationships.</p> <p>AH13 Respect and encourage that all points of view be heard.</p>

Behavioural Code in Code of Conduct for Council Members		Adelaide Hills Council Behavioural Standards	
Council members must:		Council members of Adelaide Hills Council will:	
Relationship with Council staff			
2.11	Not bully or harass Council staff.	AH14	Seek to achieve a team approach when dealing with Council staff in an environment of mutual respect, trust, and acceptance of the different roles of Council staff and Members in achieving the Council's objectives and policies.
2.12	Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.	AH15	Promote mature and constructive working relationships with the Senior Leadership Team and other Council staff, based on mutual trust and respect.
2.13	Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.	AH16	Respect the role of Council staff in providing professional opinion, guidance and expertise.
2.14	Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.	AH17	Utilise appropriate channels established by the Chief Executive Officer under Section 61 of the <i>Local Government Act 1999</i> for the purposes of obtaining official Council documents or information that is not publicly available.

4. Media Releases, Public Comment & External Communication

- 4.1 The Mayor or Chief Executive Officer (or another person delegated by them) may make statements to the media relating to the policy of Council or its position on particular issues.
- 4.2 Questions on Council business or those of a technical nature should be directed to the Chief Executive Officer or appropriate Director.
- 4.3 In accordance with clause 2.5 of the Code of Conduct, if members of Council make personal statements to the media, they should indicate that the statement reflects their personal view and is not necessarily the policy or position of Council, unless an individual has been specifically authorised by Council to convey a particular position to the media.

5. Gifts and Benefits

- 5.1 Part 3 of the Code of Conduct contains specific guidance regarding Council Member obligations in relation to gifts and benefits. Further, clause 3.10 establishes the

requirement for gifts and benefits received above a specified value to be recorded in the Council Gifts and Benefits Register.

- 5.2 The Members of the Adelaide Hills Council believe that the principles of open and accountable government can most effectively be promoted in this respect by committing to register all gifts and benefits regardless of value.

6. Dress Code

- 6.1 Adelaide Hills Council Members will afford respect to their official role and the community they represent by maintaining a standard of dress equivalent to neat business attire when attending Council meetings.

7. Breaches of the Behavioural Standards

- 7.1 Clause 2.6 of the Code of Conduct provides that members of councils must comply with all council policies, codes and resolutions. A breach of the Behavioural Standards is therefore considered by Council to be a breach of Clause 2.6 of the Code of Conduct and will be dealt with accordingly.
- 7.2 Alleged breaches of both the Code of Conduct and the Behavioural Standards are managed through the Code of Conduct Complaint Handling Procedure at Attachment C.

ATTACHMENT C

Code of Conduct Complaint Handling Procedure

1. Introduction

- 1.1 On 1 September 2013, a new Code of Conduct for Council Members was made by Regulation. The Code of Conduct applies to all Council Members across the Local Government sector and may be the subject of a Council investigation or an Ombudsman investigation, depending on the nature of the issue. The Code of Conduct also contains sanctions which may be imposed by Council on a Council Member where a breach of the Code is found to be sustained.
- 1.2 The preamble to Part 2 of the Code requires each Council to adopt a process for the handling of alleged breaches of Part 2 and that the process will need to be reviewed within 12 months of a general local government election.
- 1.3 On 21 January 2014, the Adelaide Hills Council initially adopted the AHC Behavioural Standards which provide for an additional agreed set of behavioural principles and standards to complement and confirm the requirements of the Code of Conduct.
- 1.4 Clause 2.6 of the Code of Conduct requires Council Members to comply with Council policies, codes and resolutions; therefore a breach of the Behavioural Standards is a breach of Part 2 of the Code of Conduct.

2. Purpose and Scope

- 2.1 This procedure applies when the Council receives a complaint against a Council Member under the Code of Conduct for Council Members as gazetted on 29 August 2013.

3. Provisions of the Code of Conduct

- 3.1 The Code of Conduct for Council Members contains the following clauses regarding Complaints and Findings (of alleged breaches under Part 2):
 - 2.17 *Any person may make a complaint about a Council member under the Behavioural Code.*
 - 2.18 *Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.*
 - 2.19 *A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.*
 - 2.20 *A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.*
 - 2.21 *A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.*

- 2.22 *A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.*
- 2.23 *Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.*
- 2.24 *A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.*
- 2.25 *If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:*
- 2.25.1 *Take no action;*
 - 2.25.2 *Pass a censure motion in respect of the Council member;*
 - 2.25.3 *Request a public apology, whether written or verbal;*
 - 2.25.4 *Request the Council member to attend training on the specific topic found to have been breached;*
 - 2.25.5 *Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);*
 - 2.25.6 *Request the member to repay monies to the Council.*

- 3.2 The Complaint Handling Procedure supplements (but does not replace) the requirements of the above clauses of the Code of Conduct.

4. Breaches the Code of Conduct

- 4.1. Breaches of the Code of Conduct may relate to behaviour (in Part 2 of the Code) or misconduct (in Part 3 of the Code). Criminal or corruption matters, which are subject to separate legislation, do not form part of the Code of Conduct for Council Members but are referred to in the Appendix to the Code. This procedure covers referral of these types of complaints to other agencies.
- 4.2. Where an alleged breach occurs the complainant should report the allegation, in writing, to the Council, addressed to the CEO. The allegation should:
- be specific
 - provide as much supporting evidence as possible to assist an investigation
 - provide the name of the Member who has allegedly breached the Code.
- 4.3. The CEO must acknowledge receipt of the complaint within three (3) clear business days of receiving the complaint.
- 4.4. Complainants can, at any time, take the alternative option of lodging the complaint directly to the Ombudsman or with the Office of Public Integrity (OPI), which will direct the complaint in accordance with the ICAC Act.

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- 4.5. The CEO must advise the Mayor (or if it relates to the Mayor, his/her deputy) of receipt of a complaint within three (3) clear business days. (Hence forth in this procedure reference to the Mayor will be taken as the Mayor or deputy.) The Mayor will determine whether the complaint relates to:
- behavior which falls under Part 2 of the Code
 - misconduct which triggers action under Part 3 of the Code or
 - criminal or corrupt behaviour
- 4.6. Complaints relating to misconduct or criminal behaviour must be referred to the appropriate authorities immediately. (See below at clauses 8 and 9)
- 4.7. Council maintains jurisdiction where the complaint deals with conduct that falls into Part 2 of the Code. Part 2 deals with conduct that reflects reasonable community expectations of how Council Members should conduct themselves. Robust debate within Council which is conducted in a respectful manner is not a breach of this Part.
- 4.8. Having regard to the seriousness of the allegation and information provided, the Mayor may:
- seek to resolve the matter internally
 - refer the complaint to the Local Government Governance Panel
 - dismiss the allegation.
- 4.9. Within three (3) clear business days of being advised in accordance with clause 4.5, the Mayor must advise the Member, who is the subject of the complaint, of the of the complaint and its substance. The Member will also be advised of the manner in which the Mayor intends to deal with the complaint.
- 4.10. The Mayor must ensure that the principles of procedural fairness and natural justice are observed.
- 4.11. Upon being advised of the complaint, the Mayor must bring the fact of the complaint but not the details of the allegations to the attention of the Council at the next formal meeting of the Council.

5. Alleged Breach of Part 2 - Internal response

- 5.1. Only matters which are determined to be of a minor nature will be dealt with internally and only with the agreement of the parties. The Mayor, may hold meetings with the complainant and the Council Member and may seek mediation and conciliation between the parties in an attempt to resolve the matter to the satisfaction of all parties (this may be appropriate, for example, where the complainant is also a Council Member). An appropriately qualified person may be engaged, in consultation between the Mayor and the CEO, to assist the Mayor in this process.
- 5.2. Where the matter is resolved to the satisfaction of all the parties, the Mayor will send written confirmation to all the parties within three (3) clear business days confirming that the matter has been resolved.

- 5.3. Where the matter cannot be resolved, the Mayor will refer the original complaint to the Local Government Governance Panel. Neither the Mayor nor the CEO will investigate a complaint.

6. Alleged Breach of Part 2 – Referral to the Local Government Governance Panel

- 6.1. Where there has been an allegation that a Council Member has breached Part 2 of the Code, the complaint may be referred to the independent Local Government Governance Panel by the Mayor under this procedure.
- 6.2. Complaints referred to the Governance Panel will specify the ground/s of the complaint, set out the circumstances of the complaint and be accompanied by any other material that is available to support the complaint. A copy of the Governance Panel's procedures is available on the Governance Panel webpage on the LGA's website under *Rules of Engagement*. [www.lga.sa.gov.au]
- 6.3. The matter will be assessed initially by the Panel Chairperson who will determine the process to be followed and the person who will deal with the matter. The matter may be dismissed if it is frivolous, vexatious, misconceived or lacking in substance. Where a complaint progresses to an investigation, a report will be prepared by the Panel and will be provided to the Council. The report may recommend to the Council appropriate action in relation to the matter, including the imposition of any of the sanctions available to a Council under clause 2.25 of the Code of Conduct (see below).

7. Alleged Breach of Part 2 – Finding Reports to Council

- 7.1. If, following a resolution to a complaint employing the Internal Response method (clause 5 above) in which no breach of Part 2 of the Code is found, a report will be provided to a public meeting of Council stating the finding but not the details of the allegations.
- 7.2. If, following a resolution to a complaint employing the Internal Response method (clause 5 above) in which a breach of Part 2 of the Code is found, the breach must be the subject of a report to a public meeting of Council (clause 2.24 of the Code). The Council may, by resolution, take any of the following actions:
- Take no action;
 - Pass a censure motion in respect of the Council Member;
 - Request a public apology, whether written or verbal;
 - Request the Council Member to attend training on the specific topic found to have been breached;
 - Resolve to remove or suspend the Council Member from a position within the Council (not including the Member's elected position on Council)
 - Request the member to repay monies to the Council.
- 7.3. If, following investigation by the Governance Panel, no breach of the Part 2 of the Code is found, a report will be provided to a public meeting of Council stating the finding but not the details of the allegations.

- 7.4. If, following investigation by the Governance Panel, a breach of the Part 2 of the Code is found, the breach must be the subject of a report to a public meeting of Council (clause 2.24 of the Code). The Council may, by resolution, take any of the following actions:
- Take no action;
 - Pass a censure motion in respect of the Council Member;
 - Request a public apology, whether written or verbal;
 - Request the Council Member to attend training on the specific topic found to have been breached;
 - Resolve to remove or suspend the Council Member from a position within the Council (not including the Member's elected position on Council)
 - Request the member to repay monies to the Council.

8. Part 3 - Mandatory Code (Misconduct)

- 8.1. Any person may report an alleged breach of Part 3 of the Code to the Council, the Ombudsman or the Office for Public Integrity. Alleged breaches of this Part made to Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation.
- 8.2. Under the Code of Conduct, a Council Member who is of the opinion that a breach of Part 3 of the Code has occurred, or is currently occurring, must report the breach to the Mayor of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 8.3. A failure to report an alleged or suspected breach of Part 3 of the Code is in itself a breach under Part 2 of the Code.
- 8.4. A failure of a Council Member to co-operate with the Council's process for handling alleged breaches of Part 2 of the Code may be referred for investigation under Part 3.
- 8.5. A failure of a Council Member to comply with a finding of an investigation under Part 2 of the Code, adopted by the Council, may be referred for investigation under Part 3.
- 8.6. Repeated or sustained breaches of Part 2 of the Code by the same Council Member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 8.7. A report from the Ombudsman that finds a Council Member has breached Part 3 of the Code of Conduct must be the subject of a report to a public meeting of the Council.
- 8.8. The Council must pass a resolution to give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

9. Criminal Matters – Appendix to the Code of Conduct

- 9.1. The matters within the Appendix to the Code of Conduct are matters for which a criminal penalty attaches. These matters must be reported to the OPI. In addition, allegations of a breach of any of the offence provisions in the *Local Government Act* must also be reported to the OPI. (See Council's *Fraud and Corruption Prevention Policy* for further information on reporting requirements or the *Directions and Guidelines* issued by the Independent Commissioner Against Corruption).
- 9.2. In compliance with the Independent Commissioner against Corruption Act 2012, referral of such complaints to the OPI will remain confidential.