


# *Council Policy*

Council Member Work, Health and Safety



# COUNCIL POLICY

 <p><b>Adelaide Hills</b> COUNCIL</p>	<p><b>COUNCIL MEMBER WORK, HEALTH AND SAFETY POLICY</b></p>
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<p><b>Policy Number:</b></p>	<p><b>CM-06</b></p>
<p><b>Responsible Department(s):</b></p>	<p><b>Governance &amp; Performance</b></p>
<p><b>Relevant Delegations:</b></p>	<p><b>As per the Delegations Register and as detailed in this Policy</b></p>
<p><b>Other Relevant Policies:</b></p>	<p><b>Code of Practice for Council Meeting Procedures Behavioural Management Policy Behavioural Standards for Elected Members Psychosocial Hazard Management Policy Workplace Bullying Policy and Procedure Fair Treatment and Grievance Resolution Policy and Procedure</b></p>
<p><b>Relevant Procedure(s):</b></p>	<p><b>Council and Committee Meeting Risk Assessment Procedure and Assessment Tool Hazard and Risk Management Procedure Corrective and Preventative Action Procedure Consultation and Communication Procedure Incident Reporting and Investigation Procedure Psychosocial Hazard Management Procedure</b></p>
<p><b>Relevant Legislation</b></p>	<p><b><i>Local Government Act 1999 Local Government (General) Regulations 2013 Work Health and Safety Act 2012 Work Health and Safety Regulations 2012</i></b></p>
<p><b>Policies and Procedures Superseded by this policy on its Adoption:</b></p>	<p><b>NEW</b></p>
<p><b>Adoption Authority:</b></p>	<p><b>Council</b></p>

<b>Date of Adoption:</b>	<b><i>22 April 2025</i></b>
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<b>Minute Reference for Adoption:</b>	<b>134/25</b>
<b>Review Date:</b>	<b>No later than April 2028 or as required by legislation or changed circumstances</b>

## Version Control

<b>Version No.</b>	<b>Date of Effect</b>	<b>Description of Change(s)</b>	<b>Approval</b>
1.0		New Policy	Council - Res 134/25

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## COUNCIL MEMBER WORK, HEALTH AND SAFETY POLICY

### 1. INTRODUCTION

- 1.1.** This policy outlines the principles and guidelines for managing Work, Health and Safety (WHS) in relation to Council Members. It aims to support Council and the administration in meeting legislative obligations and ensure the WHS of Council Members as far as reasonable and practicable.
- 1.2.** This policy should be read in conjunction with other relevant Council policies and procedures, including the *Behavioural Management Policy*, the *Behavioural Standards for Council Members*, and *Code of Practice for Council Meeting Procedures*. It has been developed with reference to the requirements of the *Local Government Act 1999 (SA)* (The Local Government Act) and the *Work, Health and Safety Act 2012 (SA)* (the Work, Health and Safety Act).

### 2. POLICY OBJECTIVE

- 2.1.** The objectives of this policy are to:
- (a) Outline the duties and responsibilities of Council Members under the *Work, Health and Safety Act 2012 (SA)*.
  - (b) Outline the duties and responsibilities of Council Members under section 75G of the *Local Government Act 1999 (SA)*.
  - (c) Outline the duties and responsibilities that Adelaide Hills Council holds as a 'Person Conducting Business or Undertaking' (PCBU) in relation to Council Members under the *Work, Health and Safety Act 2012 (SA)*.
  - (d) Provide Council Members with information regarding consultation and reporting of WHS matters.

### 3. SCOPE

- 3.1.** This Policy applies to:
- (a) Council as a PCBU,
  - (b) PCBU Officers including the CEO and members of the Executive Leadership Team and
  - (c) Council Members when engaged in activities organised by Council as a PCBU
- 3.2** This policy does not apply to the conduct of Council Members when undertaking activities outside the control and influence of Council as a PCBU. This includes, but is not limited to:

- Council member's interactions with the public when not organised by Council
- Attendance at non-official social activities
- Campaigning for elections

Council Members are responsible for their own health and safety and managing risks when undertaking activities of this nature.

#### 4. DEFINITIONS

<b>Person Conducting a Business or Undertaking (PCBU)</b>	<p>Includes any person who conducts a business or undertaking:</p> <ul style="list-style-type: none"> <li>• Whether the business or undertaking is conducted alone or with others; and</li> <li>• Whether or not it is conducted for profit or gain.</li> </ul> <p>Under this definition, a Council is considered a PCBU.</p> <p>However, in accordance with section 5(6) of the WHS Act, an elected member of a local authority does not, in that capacity, conduct a business or undertaking.</p> <p>Therefore, a Council Member is not considered a PCBU in relation to their role with Council.</p>
<b>Officer</b>	<p>A person who makes decisions or participates in making decisions that affect the whole or a substantial part of a business or undertaking and has the capacity to significantly affect the financial standing of the business or undertaking.</p> <p>A Council Member is not an Officer</p> <p>The Executive of Council may be considered Officers under the WHS Act.</p>
<b>Worker</b>	<p>If the person carries out work in any capacity for a person conducting a business or undertaking, including work as:</p>

	<ul style="list-style-type: none"> <li>• An employee; or</li> <li>• A contractor or subcontractor; or</li> <li>• An employee of a contractor or subcontractor; or</li> <li>• An employee of a labour hire company who has been assigned to work in the person's business or undertaking; or</li> <li>• An apprentice or trainee; or</li> <li>• A student gaining work experience; or</li> <li>• A volunteer</li> </ul> <p>It is generally accepted that Council Members are not workers for the purpose of the WHS Act</p>
<b>Others</b>	People who are present at a workplace and are not workers, including but not limited to Council Members, visitors, customers, and members of the public.
<b>Responsible Person</b>	<p>For the purposes of this policy and subsection (1)(b) of section 75G of the Local Government Act the <i>responsible person</i> is:</p> <p>(a) if the person whose health and safety may be adversely affected is an employee of the council—the chief executive officer of the council; or</p> <p>(b) if the person whose health and safety may be adversely affected is the principal member of the council—the deputy or another member chosen by the council; or</p> <p>(c) if the person whose health and safety may be adversely affected is another member or the chief executive officer of the council—</p> <p>(i) unless subparagraph (ii) applies, the principal member of the council; or</p> <p>(ii) if the relevant acts or omissions are those of the principal member of the council—the deputy or another member chosen by the council.</p>
<b>Health</b>	Physical and psychological health

<b>Health and Safety Harm</b>	Harms (death, injury, or illness, including physical and/or psychological harm) that might occur when people are exposed to a hazard.
<b>Psychosocial Hazards</b>	<p>Hazards that arise from or relate to:</p> <ul style="list-style-type: none"> <li>• the design or management of work</li> <li>• the working environment</li> <li>• plant at a workplace, or</li> <li>• workplace interactions or behaviours</li> </ul> <p>and which may cause psychological and/or physical harm.</p>

## 5. POLICY STATEMENT

- 5.1.** The Adelaide Hills Council is committed to ensuring the health, safety and welfare of all persons by (as far as reasonable and practicable) proactively managing hazards, including psychosocial hazards in the workplace and ensuring compliance with the Work, Health and Safety Act 2012.
- 5.2.** Council recognises its obligations as a Person Conducting a Business or Undertaking (PCBU) under the Work Health and Safety Act 2012 and that it has a primary duty of care to manage Work Health and Safety (WHS) at Council as far as is reasonable and practicable.
- 5.3.** Council is committed to ensuring Council Member safety and cultivating a supportive environment where all persons feel valued and safe from physical and psychological harm.
- 5.4.** Adelaide Hills Council does not accept unsafe behaviour and encourages everyone to address safety concerns, including speaking out if they personally experience or witness unsafe behaviour.
- 5.5.** Adelaide Hills Council respects the confidentiality of reports made in accordance with this Policy wherever reasonable and practicable.

## 6. COUNCIL MEMBERS & THE WORK, HEALTH AND SAFETY ACT 2012

- 6.1.** Council Members are specifically excluded from the definitions of a 'PCBU' and Officer of a 'PCBU'. It is generally accepted that Council Members are not workers for the purpose of the WHS Act.
- 6.2.** Council Members hold duties as 'others' under the Act. Section 29 of the Act requires

*A person at a workplace (whether or not the person has another duty under this Part) must—*

- a) take reasonable care for his or her own health and safety; and*
- b) take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and*
- c) comply, so far as the person is reasonably able, with any reasonable instruction that is given by the person conducting the business or undertaking to allow the person conducting the business or undertaking to comply with this Act.*

This means that a Council Member must:

- a) take reasonable care of their own health and safety; and
- b) take reasonable care that their actions (or inaction) do not harm the health and safety of others; and
- c) comply, so far as the person is reasonably able, with any reasonable instruction given by an officer of Council, to allow Council (as a PCBU) to meet its WHS obligations under the WHS Act.

The responsibilities of Council Members are outlined in section 12 of this policy.

## **7. COUNCIL AS A 'PERSON CONDUCTING A BUSINESS OR UNDERTAKING' & THE WORK, HEALTH AND SAFETY ACT 2012**

**7.1.** Council (being the PCBU) holds a duty under Section 19(2) of the Act towards 'other' persons and therefore towards Council Members.

**7.2.** Section 19 (2) of the Act prescribes that:

- (a) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.*

This means that Council (as a PCBU) must take reasonable and practicable steps to ensure the health and safety of Council Members when undertaking activities within the control and influence of Council (as a PCBU).

## **8. OFFICERS OF THE WORK, HEALTH AND SAFETY ACT 2012**

**8.1** The CEO and Executive Leadership Team may be considered 'officers' under the Work, Health and Safety Act.

**8.2** Under s27 of the Work, Health and Safety Act, officers have obligations to exercise due diligence to ensure Council meets its Work, Health and Safety duties to protect workers and other persons against harm to health and safety. This includes providing a safe environment and appropriate systems to meet Council's (as a PCBU) legal obligations



under WHS and Local Government Act legislation. Their responsibilities of officers are outlined in section 12 of this policy.

## **9. SECTION 75G HEALTH AND SAFETY DUTIES**

**9.1.** Council Members also have Health and Safety duties under section 75G of the *Local Government Act 1999*.

**9.2.** Council Members must:

- (a) take reasonable care that the member's acts or omissions do not adversely affect the health and safety of other members of council or employees of the council; and
- (b) comply, so far as the member is reasonably able, with any reasonable direction that is given by a responsible person for the purposes of ensuring that the member's acts or omissions do not adversely affect the health and safety of other members of the council or employees of the council.

**9.3.** Reasonable directions may be issued by a responsible person for the purposes of ensuring health and safety of Council Members or employees of Council.

**9.4.** Reasonable directions may include the direction not to attend Council or Committee meetings if there are no other reasonable directions considered appropriate in the circumstances to ensure the health and safety of the affected person.

**9.5.** Section 75G duties are in addition to and do not limit the operation of the Work, Health and Safety Act 2012.

## **10. CONSULTATION**

**10.1.** Council will meaningfully consult with Council Members regarding WHS matters that fall within the scope of this policy. This consultation may include:

- (a) WHS updates through Council Member workshops or agenda reports
- (b) Opportunities to provide input on WHS policies and procedures that affect Council Members
- (c) Access to WHS training.

**10.2.** Council will ensure consultation is timely, genuine, and enables Council Members to contribute to decision-making related to WHS matters that fall within the scope of this policy.

## **11. REPORTING PROCESSES**

**11.1.** Council encourages the raising of WHS issues and concerns by Council Members and maintains a clear and confidential process (where reasonable and practicable) for reporting and addressing WHS issues.

**11.2.** Council Members may raise WHS concerns through the following mechanisms, depending on the nature of the issue:

- (a) To make a WHS report which relates to Council's duties as a PCBU under the Work, Health and Safety Act Council Members can:
  - i. Lodge a WHS report in writing directly to the CEO.
  - ii. If the WHS report relates to the CEO, or the CEO has a real or perceived conflict of interest, the CEO will nominate a delegate to manage the report
- (b) To make a report in relation to the conduct of Council Members under s75G of the Local Government Act 1999 Council Members can:
  - i. Make a complaint to the Responsible Person (usually the Mayor) under section 75G
  - ii. If the complaint involves the Mayor, report the matter to the Deputy Mayor
- (c) To make a report in relation to the conduct of staff, Council Members can make a complaint under the *Grievance resolution procedure*.

**11.3.** Reports should:

- (a) Be made as soon as reasonable and practicable after the hazard, incident or injury is identified
- (b) Be in writing
- (c) Be marked Confidential
- (d) Specify the Work Health and Safety hazard, incident, or injury, including specifics regarding the date, time, location, relevant parties
- (e) Provide supporting evidence
- (f) Provide the name and contact details of any witnesses or other persons able to provide information about the hazard or incident
- (g) Outline any action taken, including steps to protect the Council Member's own or others' health and safety
- (h) Identify preferred outcomes, taking into account what is reasonable and practicable

**11.4.** Reports of Work, Health and Safety by Council Members will be managed in line with the *Incident Reporting and Investigation Procedure*.

**11.5.** The person managing the report (or the Responsible Person under s75G of the Local Government Act) may, with the assistance of administration where necessary, seek independent advice in the management of the report.

- 11.6.** Council Members may seek advice or support through the Council's Employee Assistance Program, or request a support person to be present during the reporting process.

**12. RESPONSIBILITIES**

Council (as a PCBU) and Officers of the Council must:

- a) Comply with all duties applicable under the Work, Health and Safety Act 2012.
- b) Comply with all duties applicable under section 75G of the Local Government Act 1999.
- c) Comply with Council's health and safety policies and procedures.
- d) Identify reasonably foreseeable physical and psychosocial hazards that could give rise to risks.
- e) Carry out risk assessments to assess potential risks.
- f) Implement control measures.
- g) Review, evaluate and report on control measures.
- h) Consult on health and safety matters.
- i) Provide training on health and safety policies.
- j) Provide avenues for Council Members to report health and safety hazards, incidents or injuries.
- k) Offer access to council members and their immediate families to the Employee Assistance Program (EAP) providing free, confidential counselling services.

Council Members must:

- a) Comply with all duties applicable under the Work, Health and Safety Act 2012.
- b) Comply with all duties applicable under section 75G of the Local Government Act 1999.
- c) Comply with Council's health and safety policies and procedures.
- d) Comply with reasonable instructions given by Officers of Council (as a PCBU) or the Responsible Person under s75G.
- e) Take reasonable care for their own health and safety including ensuring that

their action or inaction does not negatively affect their own health and safety.

- f) Take reasonable care that their actions or inactions do not negatively affect the health and safety of others, including not using threatening, abusive, insulting, intimidating or bullying language or behaviour to other persons.
- g) Take reasonable care to not incite others to take actions that negatively affect the health and safety of other persons.
- h) Report all health and safety hazards, incidents and injuries in accordance with this policy.
- i) Participate in relevant consultation or training where required.

### **13. DELEGATION**

**13.1.** The Chief Executive Officer has the delegation to:

- Approve, amend and review any procedures that shall be consistent with this Policy; and
- Make any legislative, formatting, nomenclature or other minor changes to the Policy during the period of its currency.

### **14. AVAILABILITY OF THE POLICY**

**14.1.** This Policy will be available via the Council's website [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au).