



Western Australia

Local Government Act 1995

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

Local Government (Model Code of Conduct) Regulations 2021

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Local Government (Model Code of Conduct) Regulations 2021

Part 1 — Preliminary

1. Citation

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

2. Commencement

These regulations come into operation as follows —

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

Part 2 — Model code of conduct

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

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

Part 3 — Repeal and consequential amendments

Division 1 — Repeal

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repealed

The *Local Government (Rules of Conduct) Regulations 2007* are repealed.

Division 2 — Other regulations amended

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

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

Part 9A — Minor breaches by council members

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

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

Local Government (Model Code of Conduct) Regulations 2021

Part 3 Repeal and consequential amendments

Division 2 Other regulations amended

r. 6

6. Local Government (Audit) Regulations 1996 amended

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

s. 5.104

- (b) delete:

<i>Local Government (Rules of Conduct) Regulations 2007</i>		
r. 11		

7. Local Government (Constitution) Regulations 1998 amended

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

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

Schedule 1 — Model code of conduct

[r. 3]

Division 1 — Preliminary provisions

1. Citation

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

2. Terms used

(1) In this code —

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

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

publish includes to publish on a social media platform.

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

Division 2 — General principles

3. Overview of Division

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

4. Personal integrity

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

(a) act with reasonable care and diligence; and

(b) act with honesty and integrity; and

(c) act lawfully; and

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

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

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

5. Relationship with others

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

6. Accountability

A council member or committee member should —

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

Division 3 — Behaviour

7. Overview of Division

This Division sets out —

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

8. Personal integrity

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

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

(2) A council member or committee member —

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

9. Relationship with others

A council member, committee member or candidate —

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

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

10. Council or committee meetings

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

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

11. Complaint about alleged breach

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

12. Dealing with complaint

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

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

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

13. Dismissal of complaint

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

14. Withdrawal of complaint

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

15. Other provisions about complaints

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

Division 4 — Rules of conduct

Notes for this Division:

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

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

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

16. Overview of Division

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

17. Misuse of local government resources

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

18. Securing personal advantage or disadvantaging others

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

19. Prohibition against involvement in administration

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

20. Relationship with local government employees

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

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

21. Disclosure of information

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

22. Disclosure of interests

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

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

23. Compliance with plan requirement

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



Notes

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

Compilation table

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

Defined terms

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

The list is not part of the law.]

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

Code of Conduct
for
Council Members,
Committee Members
and
Candidates

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Introduction

In accordance with section 5.104 of the *Local Government Act 1995* every Western Australian local government is to adopt a code of conduct to be observed by council members, committee members and local government election candidates (candidates). A local government's code of conduct is to reflect the mode code of conduct prescribed by section 5.103(1) of the *Local Government Act 1995* which includes:

- general principles to guide behaviour
- requirements relating to behaviour
- provisions specified to be rules of conduct.

This *Code of Conduct for Council Members, Committee Members and Candidates* (the code) has been adopted for this purpose and ensures the roles and responsibilities of council members (being the Mayor and Councillors), committee members and candidates are understood and respected. This enables professional relationships to be established and maintained in the interests of providing good governance, overall integrity and good government for the community.

The code sets out principles and standards of behaviour council members, committee members and candidates must observe and is intended to promote accountable and ethical decision-making and conduct.

The *Local Government Act 1995* and other legislation contain other conduct matters that affect council members, committee members and candidates, and this code does not override or affect those provisions or requirements.

Values

The City's *10 Year Strategic Community Plan* (Joondalup 2022) articulates the City's vision as being '*A global City: bold, creative and prosperous*'.

In alignment with this vision, the City believes the following primary values should be inherent within any well-functioning and community-driven organisation:

- **Transparent** - We facilitate appropriate levels of scrutiny by recording our decisions and making them accessible.
- **Accountable** - We accept responsibility for our actions and decisions that are within our control.
- **Honest** - We earn and sustain public trust by being honest and open in all our actions and always acting in the public interest.
- **Ethical** - We demonstrate moral behaviour that is free from corruption.
- **Respectful** - We treat people fairly and objectively and without discrimination.
- **Sustainable** - We manage our natural resources and public assets adaptively, ensuring equitable outcomes for future generations.
- **Professional** - We demonstrate strong skills and good judgment and behaviour in delivering our services.

Joondalup 2022 has identified the following distinguishing values to guide the direction and operations of the City into the future:

- **Bold** - We will make courageous decisions for the benefit of the community and future generations.
- **Ambitious** - We will lead with strength and conviction to achieve our vision for the City.
- **Innovative** - We will learn and adapt to changing circumstances to ensure we are always one step ahead.
- **Enterprising** - We will undertake ventures that forge new directions for business and the local economy.
- **Prosperous** - We will ensure our City benefits from a thriving economy built on local commercial success.
- **Compassionate** - We will act with empathy and understanding of our community's needs and ambitions.

Council members and committee members are to observe these values to enable the City to achieve its strategic objectives and organisational goals.

Division 1 - Preliminary provisions

1. Citation

This is the *City of Joondalup Code of Conduct for Council Members, Committee Members and Candidates*.

2. Terms used

(1) In this code -

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

City means the City of Joondalup, being a local government established as a body corporate under section 2.5 of the Act;

CEO means the Chief Executive Officer of the City;

Council means the Council of the City;

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

publish includes to publish on a social media platform.

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

Division 2 - General principles

3. Overview of Division

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

4. Personal Integrity

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

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

(2) A council member or committee member should -

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

5. Relationship with others

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

6. Accountability

A council member or committee member should -

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

Division 3 - Behaviour

7. Overview of Division

This Division sets out -

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

8. Personal integrity

- (1) A council member, committee member or candidate -
 - (a) must ensure that their use of social media and other forms of communication complies with this code; and
 - (b) must only publish material that is factually correct.
- (2) A council member or committee member -
 - (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
 - (b) must comply with all policies and procedures of the City; and
 - (c) must comply with all resolutions of the Council or a Committee (where the Committee has been given delegated authority by the Council under section 5.16 of the Act).

9. Relationship with others

A council member, committee member or candidate -

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

10. Council or committee meetings

When attending a Council or Committee meeting, Briefing Session or Strategy Session, a council member, committee member or candidate, where applicable -

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

11. Complaint about alleged breach

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

12. Dealing with complaint

- (1) After considering a complaint, the CEO must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.

- (2) Before the CEO makes a finding in relation to the complaint under subclause (12)(1), the CEO must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the CEO makes a finding that the alleged breach has occurred, the CEO may -
 - (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the CEO must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following -
 - (a) engage in mediation;
 - (b) undertake counselling;
 - (c) undertake training;
 - (d) take other action the CEO considers appropriate.
- (7) If the CEO makes a finding in relation to the complaint, the CEO must give the complainant, and the person to whom the complaint relates, written notice of -
 - (a) the CEO's finding and the reasons for its finding; and
 - (b) if the CEO's finding is that the alleged breach has occurred, its decision under subclause (4).

13. Dismissal of complaint

- (1) The CEO must dismiss a complaint if it is satisfied that -
 - (a) the behaviour to which the complaint relates occurred at a Council or Committee meeting, Briefing Session or Strategy Session; and
 - (b) either -
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the City that deals with meeting procedures, or any other procedures adopted by Council in relation to meetings.
- (2) If the CEO dismisses a complaint, the CEO must give the complainant, and the person to whom the complaint relates, written notice of their decision and the reasons for its decision.

14. Withdrawal of complaint

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

15. Other provisions about complaints

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

Division 4 - Rules of conduct

Notes for this Division:

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

16. Overview of Division

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

17. Misuse of City resources

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

18. Securing personal advantage or disadvantaging others

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

19. Prohibition against involvement in administration

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

20. Relationship with City employees

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

21. Disclosure of information

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

22. Disclosure of interests

- (1) 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.
- (2) A council member who has an interest in any matter to be discussed at a Council or Committee meeting attended by the council member must disclose the nature of the interest -
- in a written notice given to the CEO before the meeting; or
 - at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know -

- (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then -
- (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if -
- (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

23. Compliance with plan requirement

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

Complaint Investigation Policy

City Policy

Responsible Directorate: Office of the CEO

Objective: To establish the additional complaint investigation procedures to support of City's Code of Conduct for Council Members, Committee Members and Candidates.

1. Application:

This policy applies to council members, committee members and candidates where a complaint has been received by the City under the City's *Code of Conduct of Council Members, Committee Members and Candidates*.

This policy does not apply to the investigation of complaints involving allegations of serious improper conduct, corruption, fraud or other criminal conduct which must be referred to the appropriate authority.

2. Definitions:

'**Candidate**' means a candidate for election as a council member.

'**City**' means the City of Joondalup, being a local government established as a body corporate under section 2.5 of the Act.

'**CEO**' means the Chief Executive Officer of the City.

'**Code**' means the City's *Code of Conduct for Council Members, Committee Members and Candidates*.

'**Committee member**' includes any council member, the CEO, employee or unelected member of the community in any of those cases, who has been appointed by Council to be a member of a committee.

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

'**Council**' means the Council of the City.

'**Council member**' means the City's elected Mayor or an elected Councillor.

‘Employee’ means a person:

- (a) employed by the City under section 5.36(1) of the Act; or
- (b) engaged by the City under a contract for services.

3. Statement:

In accordance with section 5.104 of the *Local Government Act 1995* every Western Australian local government is to adopt a code of conduct to be observed by council members, committee members and candidates. A local government’s code of conduct is to reflect the model code of conduct prescribed by section 5.103(1) of the *Local Government Act 1995* which includes:

- general principles to guide behaviour
- requirements relating to behaviour
- provisions specified to be rules of conduct.

The City’s Code has been adopted for this purpose and ensures the roles and responsibilities of council members, committee members and candidates are understood and respected. This enables professional relationships to be established and maintained in the interests of providing good governance, overall integrity and good government for the community.

The Code sets out principles and standards of behaviour council members, committee members and candidates must observe and is intended to promote accountable and ethical decision-making and conduct.

The purpose of this policy is to detail the high-level complaint investigation considerations in support of the mechanisms for dealing with complaints detailed in the Code. It is intended to:

- contribute to fairness, integrity and good governance
- provide guidance on the key matters to be considered in the preparation, and in the course of an investigation in relation to breaches of the Code.

4. Authorised persons to receive complaints and withdrawals:

4.1 In accordance with clause 11(3) of the Code:

- (a) the CEO is authorised to receive complaints and withdrawal of complaints under the Code; or
- (b) where the complainant is the CEO, the Director Governance and Strategy is authorised to receive complaints and withdrawal of complaints under the Code.

5. Assessment of complaint:

5.1 In dealing with a complaint under the Code, one or all of following factors will be taken into account in assessing a complaint:

- (a) Whether an alternative and satisfactory means of redress is available;
- (b) Whether the complaint is trivial, frivolous or vexatious;
- (c) Whether the complaint is made within one month after the occurrence of the alleged breach;

- (d) How serious the complaint is and the significance it has for the complainant and the City;
- (e) Whether it indicates the existence of a systemic or widespread problem throughout the Council; and
- (f) Whether it is one of a series of complaints about the same council member, indicating a pattern of conduct or a continuous problem.

6. Nature of investigation:

- 6.1 An investigation into a complaint, may be conducted by an employee or other external person, depending upon:
- (a) the nature of the complaint;
 - (b) the resources needed to conduct an investigation;
 - (c) whether any additional authorisations from Council are required; or
 - (d) the nature of the possible outcome.
- 6.2 Subject to the matters detailed in clause 6.1, additional resources are authorised by Council, to investigate a complaint including the referral of the complaint to a third party.
- 6.3 All investigations must be conducted without bias and in an impartial and objective manner without any actual or perceived conflict of interest.

7. Powers of investigation:

- 7.1 The employees detailed in clause 4.1 are authorised to commence an investigation and given the necessary powers and authority to oversee an investigation process under the Code and in line with this policy and other supporting complaint investigation protocols.
- 7.2 Any employee or other person appointed to perform an investigation into a complaint under the Code has the necessary powers to:
- (a) inquire with all parties relevant to a complaint to provide any evidence or statements relevant to the matter the subject of the complaint; and
 - (b) obtain any information from other parties in relation to policies, procedures and practices including access to relevant records or witness statements.

8. Evidence:

- 8.1 For the purposes of an investigation into a complaint, evidence can take the form of:
- (a) oral or written evidence (recollections);
 - (b) documentary evidence (records);
 - (c) expert evidence (technical advice); and
 - (d) site inspections.

- 8.2 The person or persons appointed under clause 4.1 are to maintain a central investigation file detailing any documentary evidence or records obtained, and that file is to be maintained in the City's record-keeping system with restricted access to ensure confidentiality.
- 8.3 If legal proceedings might arise at some future stage, evidence should be gathered in accordance with the rules of evidence.

9. Appropriate standard of proof:

- 9.1 In any investigation into a complaint, all allegations must be proved "on the balance of probabilities" that is it must be more probable than not that the allegations the subject of the complaint are made out.

10. Procedural fairness:

- 10.1 All investigations of a complaint are to observe due process and procedural fairness.
- 10.2 Procedural fairness for an investigation shall include:
- (a) ability for a person or persons the subject of a complaint an opportunity to respond;
 - (b) all parties given a reasonable opportunity to put their case, whether in writing, in person, or otherwise;
 - (c) the careful consideration of all evidence obtained during the course of the investigation;
 - (d) reasonable inquiries or an investigation being made before the making of a decision;
 - (e) taking into account all relevant factors and not irrelevant factors;
 - (f) ensuring any conflicts of interest are managed appropriately;
 - (g) acting fairly and without bias;
 - (h) conducting the investigation without undue delay.

11. Investigation Report:

- 11.1 At the conclusion of the investigation a confidential report is to be prepared detailing:
- (a) the substance of the complaint;
 - (b) the nature and extent of the investigation into the complaint;
 - (c) the evidence obtained during the investigation into the complaint;
 - (d) the recommended finding in relation to the complaint;
 - (e) any recommended plan prepared to address the behaviour of the person to whom the complaint relates.

12. Management of actions:

- 12.1 All findings made in contravention of the Code, and any associated actions, will be monitored and managed by persons detailed in clause 4.1 of this policy and clause 11(3) of the Code.

13. Reporting:

- 13.1 The City will maintain a register of complaints lodged with those persons authorised under clause 4.1 and dealt with under the Code. The register will be available on the City's website for public inspection.
- 13.2 Details of complaints received during a financial year, and how they were dealt with under the Code are to be reported annually in the City's Annual Report, and provided to council members from time to time.

Creation Date: XXXXXX

Amendments:

Related Documentation:

- *Local Government Act 1995.*
- *Local Government (Model Code of Conduct) Regulations 2021.*
- *City of Joondalup Code of Conduct for Council Members, Committee Members and Candidates.*

Complaint Investigation Protocol

Protocol owner:	Chief Executive Officer
Contact person (extension):	Brad Sillence (x4509)
Promapp link:	
Related protocols:	
Related policies:	<ul style="list-style-type: none"> • <i>Complaint Investigation Policy.</i>
Related plans/strategies:	
Other related documentation/legislation:	<ul style="list-style-type: none"> • <i>Code of Conduct for Council Members, Committee Members and Candidates.</i> • <i>Local Government Act 1995.</i> • <i>Local Government (Model Code of Conduct) Regulations 2021.</i>
HPERM reference:	09358
Last reviewed:	May 2021

Objective

To prescribe the process for the management of complaints involving council members, committee members and candidates in matters relating to breaches of the behaviour requirements in Division 3 of the City's code.

Background

In accordance with section 5.104 of the *Local Government Act 1995* every Western Australian local government is to adopt a code of conduct to be observed by council members, committee members and candidates. A local government's code of conduct is to reflect the model code of conduct prescribed by section 5.103(1) of the *Local Government Act 1995* which includes:

- general principles to guide behaviour
- requirements relating to behaviour
- provisions specified to be rules of conduct.

The City's code has been adopted for this purpose and ensures the roles and responsibilities of council members, committee members and candidates are understood and respected. This enables professional relationships to be established and maintained in the interests of providing good governance, overall integrity and good government for the community.

The code among other things sets out principles and standards of behaviour council members, committee members and candidates must observe and the City's *Complaint Investigation Policy* details the high level complaint investigation considerations in support of the mechanisms for dealing with complaints detailed in the code. Those documents and this protocol are intended to:

- contribute to procedural fairness, integrity and good governance
- provide guidance on the key matters to be considered in the preparation, and in the course of an investigation in relation to breaches of the Code.

Scope

The scope of this protocol is to deal with matters relating to breaches of the behaviour requirements in Division 3 of the code by council members, committee members and candidates, and all complaints under the code should be made with that objective in mind. The City 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.

Complaints such as the following are inappropriate to be dealt with under the code, the policy or this protocol and therefore are outside of their scope -

- (a) Complaints made with the intent of addressing personal grievances or disagreements.
- (b) Complaints made to express dissatisfaction with a Council member or Committee member's lawfully made decisions or performance of their role.
- (c) Minor breaches under section 5.105(1) of the *Local Government Act 1995*.
- (d) Serious breaches under section 5.114 of the *Local Government Act 1995*.
- (e) Allegations of fraud or corruption.

This protocol also does not cover complaint investigation procedures for employees.

Definitions

'Behaviour breach' means a breach of a behaviour requirement in Division 3 of the code.

'Behaviour Complaints Officer' means a person authorised in writing by Council to receive complaints and withdrawals of complaints under clause 11(3) of Schedule 1 of the *Local Government (Model Code of Conduct) Regulations 2021* and / or clause 11(3) of the code.

'Candidate' means a candidate for election as a council member.

'City' means the City of Joondalup, being a local government established as a body corporate under section 2.5 of the *Local Government Act 1995*.

'CEO' means the Chief Executive Officer of the City.

'Code' means the City's *Code of Conduct for Council Members, Committee Members and Candidates*.

'Committee member' includes any council member, the CEO, an employee or unelected member of the community, in any of those cases, who has been appointed by Council to be a member of a committee.

'Complainant' means a person complaining of a behaviour breach by a council member, committee member or a candidate.

'Complaint' means a complaint made under clause 11(1) of the code.

'Council' means the Council of the City.

'Council member' means the City's elected Mayor or an elected Councillor.

'Employee' means a person:

- (a) employed by the City under section 5.36(1) of the *Local Government Act 1995*; or
- (b) engaged by the City under a contract for services.

'Evidence' means the available facts or information which go to indicate whether or not an allegation of a breach of the code is true or valid.

'Investigator' means a person appointed as an Investigator under clauses 1.1 of this protocol.

'Policy' means the City's *Complaint Investigation Policy*.

'Report' means the report for the CEO's consideration on the outcome of the investigation of a complaint dealing with:

- (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 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 code.

'Rules of Conduct' means the rules of conduct set out in Division 4 of the code.

Employee responsibilities

The CEO and any employee with responsibilities under this protocol must:

- ensure all professional and ethical standards are met in accordance with the code, the *Code of Conduct for Employees* and any other relevant legislative standards;
- maintain confidentiality around complaints received and the process followed in dealing with complaints under the code, the policy and this protocol; and
- observe due process, evidentiary requirements and procedural fairness in dealing with complaints under the code.

Procedure:

1. Appointment of Investigator:

- 1.1 Under clause 6.1 of the policy and depending upon the severity of a complaint, an investigation into a complaint is to be conducted by an Investigator, whom may be either:
 - (a) an employee appointed by the CEO (or an employee appointed by the Director Governance and Strategy where the complainant is the CEO); or
 - (b) an external contractor, mediator or arbitrator appointed by the CEO (or an external contractor appointed by the Director Governance and Strategy where the complainant is the CEO).
- 1.2 Where a person is appointed as an Investigator to conduct an investigation into a complaint or complaints, that person is to have relevant legal knowledge and/or experience to review and consider the complaint of a behaviour breach made under the code.
- 1.3 A person is not to be an Investigator of a complaint if he or she has an actual or apparent conflict of interest in a matter relevant to the determination of that complaint.
- 1.4 Any conflict of interest issue is to be specifically dealt with at the beginning of the investigation process.
- 1.5 Any Investigator appointed under clause 1.1(b), is to be engaged, appointed and remunerated in accordance with the City's *Purchasing Policy* and associated purchasing protocols.

2. Process and parameters for making a complaint:

- 2.1 Any person may make a complaint alleging a behaviour breach.
- 2.2 A complaint must be in writing on the City's approved form.
- 2.3 The complainant must lodge the complaint with the City's Behaviour Complaints Officer.
- 2.4 The complainant must provide with the complaint, details of the alleged behaviour breach together with any supporting evidence.
- 2.5 A complaint cannot be submitted anonymously.

3. Referral of complaint:

- 3.1 The Behaviour Complaints Officer is to provide all complaints to the Investigator in accordance with clauses 3.2 or 3.3.
- 3.2 Subject to clause 3.3, the Behaviour Complaints Officer within 7 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 City's policy and this protocol;
 - (c) must provide the council member or committee member to whom the complaint relates with a copy of the City's policy, this protocol, a copy of the complaint (excluding the name of the complainant) and the contact details of the Investigator appointed to deal with the complaint; and
 - (d) must send to the Investigator the complaint together with details of the alleged breach and any supporting evidence provided by the complainant.
- 3.3 Where a complaint relates to a candidate, the Behaviour Complaints Officer:
- (a) within 7 days of receiving a complaint:
 - (i) must contact the complainant acknowledging that the complaint has been received;
 - (ii) as part of the acknowledgment process, must provide the complainant with a copy of the City's policy and this protocol; and
 - (iii) must advise the complainant that any action in relation to the complaint will only be taken if the candidate becomes a council member; and
 - (iv) must provide the candidate to whom the complaint relates with a copy of the City's policy, this protocol, a copy of the complaint (excluding the name of the complainant) with advice that the complaint will be investigated should the candidate be elected as a council member; and
 - (b) within 7 days of the candidate taking Office as a council member and making the necessary declaration under the *Local Government (Constitution) Regulations 1998*:
 - (i) must provide the council member to whom the complaint relates with a copy of the City's policy, this protocol, a copy of the complaint (excluding the name of the complainant) and the contact details of the Investigator appointed to deal with the complaint; and
 - (ii) must send to the Investigator the complaint together with details of the alleged breach and any supporting evidence provided by the complainant.
- 3.4 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.

4. Mediation:

- 4.1 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.
- 4.2 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.

5. Making a determination:

- 5.1 Any determination that a behaviour breach has occurred cannot be made without first having given the person to whom the complaint relates a reasonable opportunity to be heard.
- 5.2 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.
- 5.3 After considering a complaint, the Investigator must make a determination as to whether or not the alleged behaviour breach has occurred.
- 5.4 Subject to clause 5.5, 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.
- 5.5 Where the making of a determination on a complaint by the Investigator is anticipated to exceed 21 days, the Investigator must advise the complainant and the Behaviour Complaints Officer in writing of the likely timeframe it will take for the complaint to be determined.
- 5.6 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.
- 5.7 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 report, as prescribed in clause 5.8.
- 5.8 The format of the report in clause 5.7 is to include:
 - (a) an executive summary of the investigation;
 - (b) details of the complaint and the names of the complainant and the council member or committee member the subject of the complaint;
 - (c) action taken to investigate the matter;

- (d) information revealed and relevant facts and evidence established, including the disclosure's, witnesses and respondent's statements;
- (e) any mitigating circumstances revealed;
- (f) summary or conclusions as to whether the complaint on the alleged behaviour breach is substantiated on the evidence obtained in relation to the complaint;
- (g) any other general issues raised by the investigation that might also be addressed, including any recommendations for systems improvements or the introduction or alternation of policies or protocols;
- (h) a recommendation on the question whether or not a behaviour breach has been determined to have occurred;
- (i) a recommendation as to whether any, and if so what, further action is required as detailed in any associated action plan; and
- (j) if further action is required, a recommendation must be provided to the CEO on an action plan to address the behaviour of the person to whom the complaint relates.

5.9 The report must be provided to the Behaviour Complaints Officer within 14 days of making the determination.

5.10 The Investigator may recommend to the CEO to dismiss a complaint in accordance with clause 13 of the code, and if the Investigator concludes that the behaviour the subject of the complaint is an offence under the *City's Meeting Procedures Local Law 2013*, the complaint should not be dealt with further as a behaviour breach, but should be referred back to the Behaviour Complaints Officer.

5.11 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.

6. Action plans:

6.1 When preparing an action plan under clause 5.8(j) of this protocol, the Investigator must consult with the person to whom the complaint relates. The council member or committee member must be provided with the opportunity to be involved in matters such as the timing of meetings or recommended training.

6.2 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 further mediation;
- (b) Undertake counselling;
- (c) Undertake training; or
- (d) Take other action the Investigator considers appropriate.

6.3 An action plan should be designed to provide the person to whom the complaint relates with the opportunity and support to demonstrate the professional and ethical behaviour expected of a council member or committee member. 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.

7. Finding:

- 7.1 A finding of the CEO 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.
- 7.2 Based on the Investigator's report, the evidence and any further comments or submissions by the parties, the CEO may decide to:
- (a) dismiss the complaint in accordance with clause 13 of the code;
 - (b) find that the alleged breach has occurred; or
 - (c) find that the alleged breach has not occurred and take no further action.
- 7.3 If the decision under clause 7.2(b) is that a breach has occurred, the CEO may decide:
- (a) that no further action is required; or
 - (b) that further action is required and consider the adoption of an action plan as recommended by the Investigator with or without modifications as they sees fit.

8. Behaviour Complaints Officer acting on Finding:

- 8.1 Where the CEO 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:
- (a) the finding of the CEO and the reasons for the finding;
 - (b) if the finding is that the alleged breach has occurred, the CEO's decision on the course of action to be taken including the options in clause 6.2 above; and
 - (c) and invitation to meet with the CEO should the person to whom the complaint relates, wish to discuss the finding.
- 8.2 Where the person to whom the complaint relates, takes up the offer to meet with the CEO to discuss the finding, the CEO may invite a third person to observe any such discussion had at that meeting.

9. Confidentiality of complaints and record keeping:

- 9.1 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.
- 9.2 Any person appointed as a Behaviour Complaints Officer is responsible for ensuring that all appropriate record keeping is completed in relation to a complaint, including retaining in the City's record keeping system any evidence received, reports or other material associated with a complaint and its investigation.

10. Dismissal of complaint:

10.1 The CEO 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 City's *Meeting Procedures Local Law 2013*.

10.2 In any event behaviour that is an offence under City's *Meeting Procedures Local Law 2013* cannot be dealt with as a behaviour breach.

11. Withdrawal of complaint:

11.1 A complainant may withdraw their complaint any time before it is considered by the CEO.

11.2 The withdrawal of a complaint must be:

- (a) in writing; and
- (b) given to the Behaviour Complaints Officer.

12. Compliance with plan requirement:

12.1 The Behaviour Complaints Officer is to monitor the actions in timeframes set out in an action plan.

12.2 If an action plan includes any of the requirements in clause 6.2 above (i.e. in clause 12.6 of the code), failure to comply with that requirement is a breach of clause 23 of the code and as a breach of the Rules of Conduct is a minor breach under section 5.105(1) of the *Local Government Act 1995*.

13. Reporting:

13.1 the City is to maintain a register of complaints lodged under the code to a Behaviour Complaints Officer and how they were dealt with under the Code. The register is to include:

- (a) the date in which the complaint was lodged;
- (b) the council member or committee member the subject of the complaint;
- (c) what provision of the code is believed to have been contravened;
- (d) the date and finding of the CEO under the code in relation to that particular complaint.

13.2 The register detailed in clause 13.1 is to be made available on the City's website.

13.3 Where the CEO makes a finding in relation to a complaint, details of the complaint and the respective finding are to be provided to council members for their information as and when required from time to time.

13.4 The City's Annual Report, prepared under section 5.53(1) of the Act, is to contain:

- (a) the number of complaints received under the code during the financial year; and
- (b) how the complaints were dealt with.

14. Amendment to protocol:

14.1 This protocol may be amended by the CEO from time to time as circumstances warranted to ensure the effectiveness of the complaints investigation process detailed in this protocol, the policy or the code.

14.2 Any amendments made in clause 14.1 will be communicated by the CEO to council members within 7 days of the amendments coming into effect.

CITY OF JOONDALUP COMPLAINT OF ALLEGED CODE OF CONDUCT BREACH

(Clause 11(2)(a) of the *Code of Conduct for Council Members, Committee Members and Candidates*)

NOTE TO PERSON MAKING THE COMPLAINT:

This form should be completed, dated and signed by the person making a complaint of an alleged breach of the Code of Conduct.

The complaint is to be specific about the alleged breach and include the relevant section/subsection of the alleged breach.

The complaint must be made to the authorised person within one month after the occurrence of the alleged breach.

A complaint about an alleged breach by a candidate cannot be dealt with by the City unless the candidate has been elected as a council member.

Signed complaint form is to be forwarded to:

**Chief Executive Officer
City of Joondalup
PO Box 21
Joondalup WA 6919**

or

Email:

james.pearson@joondalup.wa.gov.au

DETAILS OF PERSON WHO IS MAKING THE COMPLAINT:
Name:
<div style="border-bottom: 1px solid black; display: flex; justify-content: space-between; width: 80%; margin: 0 auto;"> <i>Given Name(s)</i> <i>Family Name</i> </div>
Residential address:
<div style="border-bottom: 1px solid black; height: 20px; width: 80%; margin: 0 auto;"></div>
Postal address:
<div style="border-bottom: 1px solid black; height: 20px; width: 80%; margin: 0 auto;"></div>
Contact Number:
<div style="border-bottom: 1px solid black; height: 20px; width: 80%; margin: 0 auto;"></div>
Email address:
<div style="border-bottom: 1px solid black; height: 20px; width: 80%; margin: 0 auto;"></div>

NAME OF COUNCIL MEMBER/S , COMMITTEE MEMBER/S, CANDIDATE/S ALLEGED TO HAVE COMMITTED BREACH:

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WHAT IS YOUR COMPLAINT: State the type of your complaint by ticking the box of the particular breach alleged to have occurred under the *Code of Conduct for Council Members, Committee Members and Candidates*

- Clause 8 – Personal Integrity
- Clause 9 – Relationship with others
- Clause 10 – Council or committee meetings

(State full details of what happened in that section on the next page)

DATE OF INCIDENT:

_____ / _____ / 20_____

WHAT HAPPENED? What are the details / evidence of the contravention that is alleged to have resulted in the breach? *[Attach further information if insufficient space]*

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SIGNED:

Complainant's Signature:

Date of signing: _____ / _____ / 20_____

Received by Authorised Officer

Authorised Officer's Name:

Authorised Officer's Signature:

Date received: _____ / _____ / 20_____