



CP 1.8 | Code of Conduct Division 3 Behavioural Complaints Management

Objective

To provide a clear and consistent framework for the receipt, assessment, and handling of complaints alleging behavioural breaches under of Division 3 of the City's *Code of Conduct for Council Members, Committee Members and Candidates* (the Code of Conduct) in accordance with clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021*.

This policy provides for an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour for City of Perth council Members, committee members and candidates.

Scope

This policy applies to council members, committee members, candidates and complainants when a Behavioural Complaint has been received under the Code of Conduct.

The following are not within the scope of this policy:

- a. Complaints made with the intent of addressing personal grievances or disagreements.
- b. Complaints made to express dissatisfaction with a council or committee members lawfully made decisions.
- c. Complaints about a commissioner.
- d. Conduct, Specified and General Breach Complaints required to be administered by the Local Government Inspector.
- e. Allegations of serious breaches under section 5.114 of the Act.
- f. Allegations of serious misconduct or other criminal conduct.
- g. Complaints related to the City's products or services.

Policy Statement

Definitions:

a) In this policy:

'Authorised Person' means the Council when performing its functions in relation to complaints and includes, where authorised in accordance with Regulation 14B of the *Local Government (Model Code of Conduct) Regulations 2021*:

- a committee of the Council comprising Council Members only; or
- a suitably qualified and experienced person authorised by Council to perform a function on behalf of the Local Government



‘Complaints Officer’ means the person authorised under clause 11(3) of Schedule 1, Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021* to receive complaints and the withdrawal of complaints under the Code of Conduct.

‘Complaint’ means a complaint made regarding a breach of the behavioural provisions of the Code of Conduct made under Division 3 of the City’s Code of Conduct.

‘Candidate’ means a candidate for election as a council member, but does not include a council Member who has nominated for re-election.

‘City’ means the City of Perth, being a local government established as a body corporate under section 2.5 of the Act and continues to be a corporate body under section 6 of the *City of Perth Act 2016*.

‘CEO’ means the Chief Executive Officer of the City.

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

‘Committee’ means a committee established under the Act.

‘Committee member’ includes any council member, the CEO, employee or unelected member of the community who has been appointed by Council to be a member of a committee.

‘Complainant’ means a person who has submitted a behavioural complaint.

‘Council’ means the Council of the City.

‘Council member’ means the City’s Lord Mayor or an 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.

‘Inspector’ means the means the person holding the office of Local Government Inspector established by section 8B.1 of the Act.

‘Meeting Procedures’ means any legislation relating to the conduct of meetings that the City is subject to.



Principles:

1. All complaints will be dealt with:
 - a. in a timely and consistent manner;
 - b. objectively, impartially, and free from bias;
 - c. in accordance with procedural fairness and proper and genuine consideration of the evidence; and
 - d. on their individual merits, while maintaining consistency in decision-making across similar circumstances.
2. All complaints made under this Policy are to be managed in a confidential manner from the point a complaint is submitted. Confidentiality will be maintained to the extent required by section 8A.36 of the Act. These requirements apply to:
 - a. A complainant
 - b. A respondent
 - c. Any person performing a function under this Act in relation to a complaint.
 - d. Any person who becomes aware of details of a complaint through actions under the *Local Government Act 1995*, knowing the information is relevant.
3. Information on how to make a complaint is available on the City's website, or from the City's Administration Office upon request.

Making a Complaint

4. Any person may make a complaint alleging that a council Member, committee Member or candidate has behaved in a way that constitutes a breach of the Behavioural Requirements of the Code of Conduct.
5. A complaint must be:
 - a. made within one month of the alleged breach occurring.
 - b. In writing, by fully completing the form approved by the City
 - c. Be submitted to a complaints officer
6. The supporting information provided with the initial complaint, and any response, will be the only information considered during any assessment or investigation. The Complaints Officer may seek clarification but will not seek or accept any additional supporting information.
7. Complaints will normally be dealt with in the order in which they are received.
8. If more than one complaint is received that relates to the same alleged behaviour, the complaints officer may determine that the complaint be progressed concurrently, where appropriate.
9. A complaint in relation to a respondent who has, on at least two (2) previous occasions on or after 1



January 2026, been found to have committed a behavioural breach under the Code of Conduct must be referred to the Inspector by the Complaints Officer.

10. A Complaint in relation to a candidate must be made in accordance with the above process but cannot be dealt with unless the candidate is subsequently elected to Council.

Mediation

11. The City recognises that mediation may support both parties to a complaint to reach a mutually satisfactory resolution to the matters giving rise to the complaint.
12. Upon receipt of the complaint the Complaints Officer will, as the first course of action upon receiving a complaint, offer and encourage the complainant and the respondent to participate in Mediation.
13. If both parties agree to participate in Mediation, the formal assessment process will be paused.
14. The objective of mediation is to achieve a satisfactory resolution which leads to a mutually agreed position which results in the withdrawal of the complaint.
15. If mediation is commenced, both the complainant and respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of the Mediator.
16. If Mediation is terminated or does not achieve a resolution that results in the withdrawal of the complaint, the authorised person will resume the formal process required under this policy.

Withdrawal of Complaint

17. A complainant may withdraw their complaint, at any time before the assessment of the complaint has been completed
18. A withdrawal must be:
 - a. In writing; and
 - b. Provided to the Complaints Officer
19. After receiving a withdrawal of the complaint, the Complaints Officer will take all necessary steps to terminate the process commenced under this policy.

Processing a Complaint

20. Upon receiving a complaint, the complaints officer will provide written notice within 5 working days to the:
 - a. Complainant:
 - i. confirming receipt of the complaint.
 - ii. outlining the process that will be followed and possible outcomes.
 - iii. offering mediation
 - iv. outlining the process should mediation not be supported or proved unsuccessful that an opportunity to respond to the complaint will be provided to the respondent.
 - v. explaining the application of confidentiality to the complaint.



- vi. including a copy of this policy; and
 - vii. if necessary, seeking clarification on the correct completion of the complaint form and attachment of supporting documents.
- b. Respondent:
- i. advising that a complaint has been made and include a copy of the Complaint and supporting documents.
 - ii. offering mediation
 - iii. outlining the process should mediation not be supported or proved unsuccessful that an opportunity to respond to the complaint will be provided to the respondent.
 - iv. explaining the application of confidentiality to the complaint.
 - v. including a copy of this policy
21. Following the offer of mediation which was declined or proved unsuccessful the complaints officer will:
- a. Provide an opportunity to the respondent to provide a response to the complaint; and
 - b. Forward the complaint, and any response, to the authorised person for assessment.
22. Upon receiving a complaint, the authorised person will:
- a. assess the complaint;
 - b. make a finding as to whether a behavioural breach has occurred (unless dismissed or withdrawn)
23. The complainant and the respondent must not:
- a. Preside at any part of a council or committee meeting relating to the complaint; or
 - b. Participate in or be present during discussion or decision making relating to the complaint.

Dismissing a Complaint:

24. The authorised person must dismiss a complaint if it is satisfied that the behaviour occurred at a council or committee meeting; and either:
- a. the behaviour was dealt with by the person presiding at the meeting; or
 - b. remedial action has been taken in accordance with the relevant meeting procedures.
25. Written notice of dismissal, including the reasons, must be provided to both the complainant and the respondent.

Findings and Outcomes

26. After assessing a complaint, the authorised person may make one of the following findings, based on the evidence submitted:
- a. that more likely than not, the behavioural breach did occur; or
 - b. the behavioural breach did not occur.



27. If a breach is found, the authorised person may:
 - a. Take no further action; or
 - b. Propose an Action Plan to address the behaviour.
28. Written notice of the finding, reasons, and any action taken must be provided to both the complainant and the respondent.

Action Plan

29. A proposed Action plan may require the respondent to undertake one or more of the following actions:
 - a. participate in mediation;
 - b. undertake counselling;
 - c. undertake training; and/or
 - d. take any other action considered appropriate to address the behaviour
30. A proposed Action plan may also set out:
 - a. the specific actions to be taken to address the identified behaviour(s);
 - b. responsibility for implementing each action;
 - c. any assistance or support to be provided by the complaints officer to facilitate compliance with the plan; and
 - d. a reasonable timeframe within which the actions are to be completed.
31. When assisting the authorised person to prepare an Action plan, the complaints officer must consult with the respondent.
32. In deciding whether to take no further action, or prepare and implement a Plan, the following is to be considered:
 - a. the nature and seriousness of the breach(es).
 - b. the Respondent's submission
 - c. whether the Respondent has breached the Code of Conduct knowingly or carelessly.
 - d. whether the Respondent has breached the Code of Conduct on previous occasions.
 - e. need to protect the public through general deterrence and maintain public confidence in Local Government; and
 - f. any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.
33. The Complaints Officer will monitor the actions in timeframes set out in the Action Plan.
34. Failure to comply with a requirement included in a Plan is a conduct breach under section 8A.3 of the Act and the Code of Conduct.

Reporting Requirements:

35. Within 14 days of a decision determining the outcome of a complaint, the Complaints Officer must:



- a. give the complainant and the respondent –
 - i. a copy of the finding; and
 - ii. a copy of the decision by the authorised person, minus any attachments
 - b. If the finding is that the behavioural breach occurred, publish the behavioural breach in the record of conduct-related information required under Section 5.96C of the Act
 - c. complete any further action required by the authorised person.
36. A confidential register of Division 3 Behavioural Complaints will be maintained and made available to all Elected Members.
37. The register will:
- a. contain a copy of each complaint received by the City;
 - b. contain a copy of any outcome or findings; and
 - c. be updated quarterly, where new information is available.



Document control

Policy context

| | |
|--|--|
| Legislation, standards & external guidelines | <i>Local Government Act 1995.</i> <i>Local Government (Model Code of Conduct) Regulations 2021.</i> |
| Policies and procedures | Code of Conduct for Council Members, Committee Members and Candidates |
| Strategies, plans and frameworks | Nil |

Document custodian

| | | | |
|----------|-----------------------|--------------|-------------------------|
| Alliance | Governance and Policy | Service unit | Governance and Strategy |
|----------|-----------------------|--------------|-------------------------|

Review management

| | | | |
|-----------------|------------|--------------------------|----------------------|
| Next review due | April 2028 | Document management ref. | EDRMS-1336483316-998 |
|-----------------|------------|--------------------------|----------------------|

Document management

| Version | Adopted by | Adoption date | Synopsis of changes |
|---------|------------|----------------------|---------------------------------------|
| 1.0 | Council | OCM 29 March 2022 | Initial policy submitted for approval |
| 2.0 | Council | OCM 30 April 2024 | Amended policy adopted |
| 3.0 | Council | OCM 24 February 2026 | Amended policy adopted |