

17.5 Code of Conduct

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| Report Reference | GC220510F17.5 |
| Originating Officer | Manager Office of the Chief Executive – Kate McKenzie |
| Corporate Manager | Manager Office of the Chief Executive - Kate McKenzie |
| General Manager | Chief Executive Officer - Tony Harrison |

CONFIDENTIAL MOTION

That pursuant to Section 90(2) and (3)(g) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Chief Executive Officer, General Manager City Development, General Manager Corporate Services, General Manager City Services, Manager Office of the CEO, Unit Manager Governance and Council Support, be excluded from the meeting as the Council receives and considers information relating to a Code of Conduct matter, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given disclosure of the information would breach a duty of confidence under Section 29A the *Ombudsman Act 1972*.

REPORT OBJECTIVE

To consider the outcome of the Ombudsman Report relating to the Code of Conduct for Councillor Hull.

REPORT HISTORY

| Report Reference | Report Title |
|-------------------------|--|
| GC211012R | Code of Conduct |
| GC210914F18.4 | Code of Conduct |
| GC210824Q15.2 | Fraud and Corruption Matter – Investigation Status |

EXECUTIVE SUMMARY

This matter relates to the Code of Conduct complaint against Councillor Hull where he did not comply with a resolution of the Council to apologise for comments made to the media.

The matter was last considered by Council at its meeting of 12 October 2021 where Council resolved that Councillor Hull was required to issue an apology by 5 pm, Friday 15 October 2021. If Councillor Hull did not enact the resolution during this period, the matter was to be referred to the Ombudsman.

Councillor Hull did not issue an apology and in accordance with the resolution of 12 October 2021, the matter was referred to the Ombudsman for review. The Ombudsman determined that an investigation by their office will not be conducted as Council did not follow its procedure for investigating Code of Conduct matters. This was determined on the basis that an independent investigation was required and did not occur. A copy of the Ombudsman report is provided in **Attachment 1**.

Further enquires progressed between Administration and the Ombudsman Office regarding this determination. In particular, the definition of an investigation was questioned and if indeed this had been satisfied through the facts presented to Council through the Council reports. The Ombudsman held his position that an independent investigation was required as per the procedure and the report was not sufficient. This was confirmed by letter dated 30 March 2022 which is included as **Attachment 2**.

Based on the information provided, Council must follow the procedure to address the complaint. It must follow either sections 4.2 or 4.3 and appoint an independent person to investigate the complaint or refer the complaint to the governance panel. A copy of the Council Member Procedure for Investigating Code of Conduct Complaints is included as **Attachment 3**.

RECOMMENDATION

That Council:

1. **Notes the Ombudsman report**
2. **appoint an independent person to investigate the matter and determine if the Code of Conduct has been breached.**
3. **At the conclusion of the investigation, the matter be brought back to Council for consideration.**
4. **In accordance with Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that this report, *Code of Conduct*, any appendices and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(g) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2022.**

BACKGROUND

At its meeting of 14 September 2021, Council considered a Code of Conduct Complaint regarding comments made by Councillor Hull to the media regarding a previous employee of the Council and how the matter had been managed by Administration. At this meeting, Council determined:

"That Council:

1. *Notes that Administration informed council of the prosecution of the former employee contrary to recent public statements and that administration are not obliged to inform elected members of the prosecution outcome (pursuant to the **Local Government Act 1999**) of the terminated employee (which was publicly available knowledge)*
2. *Resolves that Councillor Hull in his behaviour and commentary to the media has breached the Code of Conduct, under Part 2:*
 - *Section 2.2, Act in a way that generates community trust and confidence in the Council*
3. *Censures Councillor Hull in relation to this incident and requests a written public apology from Councillor Hull"*

As Council resolved that the Code of Conduct had been breached, the breach was publicly released and placed on the Code of Conduct register in accordance with Councils procedure. Councillor Hull was informed of the outcome.

Following this, Councillor Hull confirmed in writing that he did not intend to comply with the

resolution of Council and was not going to issue an apology for the incident.

The matter was again considered by Council at a Special meeting of 28 September 2021 and Council resolved to defer the matter to the following meeting.

“That this item be deferred until after a foreshadowed rescission motion has been considered at the General Council meeting to be held on 12 October 2021”

A rescission motion was brought to the 12 October 2021 meeting however, this was lost and Council then resolved:

“That Council:

- 1. Notes that Councillor Hull has not enacted the Council resolution of 14 September 2021 and had indicated that he is not apologising.*
- 2. Requests that Councillor Hull enact the Council resolution by 5pm Friday, 15 October 2021.*
- 3. If Councillor Hull does not enact the resolution during this period, the matter is referred to the Ombudsman in accordance with the requirements of the Code of Conduct and section 263 of the Local Government Act 1999.”*

Councillor Hull was again informed of the outcome via email on 14th October 2021. He confirmed that he would not be apologising.

The matter was then referred to the Ombudsman for review on the 26th October 2021. The Ombudsman did review the matter and a response has been received (**Attachment 1**).

DISCUSSION

After consideration of the matter, the Ombudsman has determined that the council did not follow the processes outlined in the Complaints Procedure, as it did not appear to have considered the matter in accordance with clauses 4.1, 4.2, or 4.3. Therefore, the Ombudsman determined that the process that unfolded cannot amount to an ‘investigation’ as required by clause 5 of the Procedure, and therefore the council was not entitled to use clause 5 to pass a resolution that Cr Hull had breached the Code of Conduct.

ATTACHMENTS

1. Letter from SA Ombudsman - Attachment 1 [**17.5.1** - 3 pages]
2. Letter from SA Ombudsman - 2021-06426 - Attachment 2 [**17.5.2** - 2 pages]
3. Council- Member- Code-of- Conduct- Procedure-for- Investigating- Complaints - Attachment 3 [**17.5.3** - 5 pages]

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Enquiries: Ms Amanda Frasca
Telephone: 08 7322 7705
Ombudsman reference: 2021/06426

Mr Tony Harrison
Chief Executive Officer
City of Marion

By email to: Kate.McKenzie@marion.sa.gov.au and
Tony.Harrison@marion.sa.gov.au

Dear Mr Harrison

Your complaint about Councillor Hull

I refer to your complaint about Cr Hull under the Code of Conduct for Council Members (**Code of Conduct**), the *Local Government Act 1999* and the *Ombudsman Act 1972*.

You have advised that in August 2021, Cr Hull spoke to the media regarding a council matter. Following this, on 14 September 2021, the City of Marion (**the council**) resolved that Cr Hull had breached clause 2.2 of the Code of Conduct, that he was to be censured, and that he must issue a written public apology. Cr Hull declined to apologise, and a further statement was published by the media on 18 September 2021. The council passed a resolution on 12 October, noting that Cr Hull had not enacted the previous resolution and had indicated that he would not be apologising. The resolution provided a new deadline for Cr Hull to apologise, and provided that if Cr Hull did not enact the resolution within the timeframe, the matter would be referred to me. Cr Hull again refused to apologise. As such, you lodged a complaint with my Office, for an alleged breach of clause 3.18 of the Code of Conduct by Cr Hull.

Whenever my Office receives a complaint, the matter is assessed as to whether the complaint comes within my jurisdiction and, if so, whether I should exercise my discretion to commence an investigation. I have assessed your complaint and, although it is within jurisdiction, I have determined, in my discretion, that it is not in the public interest to take further action in relation to the matter.¹ I explain how I arrived at this decision below.

My enquiries

In my enquiries, my Office:

- assessed the information provided by you
- obtained further details from the council about your complaint
- considered the Code of Conduct, the City of Marion's Council Member Code of Conduct Procedure for Investigating Complaints (**Complaints Procedure**), the Local Government Act, and the Ombudsman Act
- prepared this letter to you.

¹ Section 12H(1)(c) of the *Ombudsman Act 1972*.

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The Complaints Procedure

Breaches relating to Part 2 of the Code of Conduct are dealt with under Part 4 of the Complaints Procedure.

Clause 4.1 of the Complaints Procedure provides that breaches of a 'minor nature' can be dealt with internally, but 'only with the agreement of the parties'. Clause 4.1.2 provides options such as the Mayor facilitating a meeting with the complainant and the council Member, or seeking mediation and conciliation between the parties in an attempt to resolve the matter. Clause 4.1.3 requires that the Mayor must ensure that the principles of natural justice and procedural fairness are observed. Clause 4.1.4 notes that if the matter cannot be resolved internally to the satisfaction of all parties, it will be referred back to council for further consideration. There is no option for an internal investigation.

Clause 4.2 provides that a complaint may be referred by council to an independent person for an investigation. Clause 4.3 provides for matters to be referred to the Local Government Governance Panel, and allows for an investigation to be conducted. Clause 4.4 provides for the council to dismiss an allegation where it is frivolous, vexatious, misconceived, or lacking in substance.

Clause 5 notes that at the conclusion of an 'investigation', council must resolve if a breach of part 2 of the Code of Conduct is found, and outlines at 5.1 the various actions that may be taken as a result of finding a breach. These actions include passing a censure motion in respect of the council member, and requesting a public apology (written or verbal).

In considering clause 5 of the Complaints Procedure, it appears that the council can *only* resolve that there has been a breach of the Code of Conduct where there has been an 'investigation' of the complaint.

Ms Amanda Frasca of this Office wrote to Ms Kate McKenzie, Manager of the Office of the Chief Executive, City of Marion, to clarify how the process undertaken by the council in this matter complies with the Complaints Procedure. In response, Ms McKenzie advised by email dated 19 January 2022:

The council did not undertake any of the procedures outlined in 4.1, 4.2 or 4.3 of the procedures. The council was presented with relevant information and this was considered to be the 'investigation'. Based on the information presented, it was considered that no further information was required and council made a finding that a breach had occurred.

I note that the Code of Conduct report initially prepared and put to the council on 14 September 2021 (report reference GC210914F18.4) outlined that Part 4 of the Complaints Procedure allowed 4 options for the council - including resolving the matter internally. However the report did not make it clear that this can only occur with the agreement of all parties (although I acknowledge that the Complaints Procedure was attached to the report).

My assessment of your complaint

While it appears that Cr Hull has not complied with the resolutions passed by council on 14 September 2021 and 12 October 2021, I have significant concerns about the process followed by council in deciding that Cr Hull had breached Part 2 of the Code of Conduct.

Based on the information provided, the council does not appear to have followed the processes outlined in the Complaints Procedure, as it does not appear to have considered the matter in accordance with clauses 4.1, 4.2, or 4.3. It does not appear that you agreed to resolve the matter internally, as required by clause 4.1, nor does it appear that the council is, pursuant to clause 4.1, able to conduct an internal investigation. Further, the matter was not

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referred to an independent person or the Local Government Governance Panel, as provided by clauses 4.2 and 4.3.

As such, it is my view that the process that unfolded cannot amount to an 'investigation' as required by clause 5 of the Complaints Procedure, and therefore the council was not entitled to use clause 5 to pass a resolution that Cr Hull had breached the Code of Conduct.

Outcome of my enquiries

In light of my assessment above and on the basis of the evidence available, it is my view that the council does not appear to have followed the processes provided for in the council's Complaints Procedure. Accordingly, I do not consider that is in the public interest for my Office to undertake further enquiries or investigation into this complaint.

I understand that this may not be the outcome you wanted, but on the evidence currently available to me, I do not think further enquiries would achieve a different result.

I intend to end my consideration of your complaint, unless you are able to identify an error in my assessment of the matter. If you think you are able to identify such an error, I ask you to contact my Office by **Wednesday 16 March 2022** with your reasoning. If you do not contact my Office within that time, I will close the file.

In future, should the council engage in the processes required by the Complaints Procedure, and should Cr Hull still refuse to comply with any resulting council resolutions, it will be open to you to lodge a fresh complaint with my Office.

Confidentiality

Please note that the Ombudsman Act imposes certain obligations on my Office and others, including complainants, officers and members of a council, to keep information about my assessments and investigations confidential.

While section 29A of the Ombudsman Act restricts the disclosure of information connected to a matter dealt with under the Act, I am able to authorise disclosure.

Generally, I consider there is a public interest in the disclosure of my decisions. However on this occasion, this matter will remain confidential, as the council may lodge a further complaint regarding these allegations with my Office in future. However, I authorise disclosure of this matter on a confidential basis to the elected council members of the City of Marion, to allow the council to consider the matter.

If you need to disclose any information about this matter to any other person (other than a person to which section 29A(3)(b) or (c) of the Ombudsman Act applies), you must contact my Office and seek an authorisation to do so.

I have sent a letter to Cr Hull, informing him of my views.

Yours sincerely



Wayne Lines
SA OMBUDSMAN

9 March 2022

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Enquiries: Ms Amanda Frasca
Telephone: 08 7322 7705
Ombudsman reference: 2021/06426

Mr Tony Harrison
Chief Executive Officer
City of Marion

By email to: Kate.McKenzie@marion.sa.gov.au and
Tony.Harrison@marion.sa.gov.au

Dear Mr Harrison

Your complaint about Councillor Hull

I refer to previous correspondence regarding your complaint about Cr Hull under the Code of Conduct for Council Members (**Code of Conduct**), the *Local Government Act 1999* and the *Ombudsman Act 1972*, including my letter dated 9 March 2022 and your response dated 17 March 2022.

I have carefully considered your response, and note that you disagree with the views I formed regarding this matter.

However, I remain of the view that an investigation by me is not in the public interest. I do not consider that the council's Complaints Procedure was followed. Notwithstanding your arguments about the interpretation of clause 4.2 of the Complaints Procedure, I consider that it is still arguable that an independent investigation was required. While that remains reasonably arguable, I am not prepared to undertake an investigation into this complaint. I note that it is within the council's power to amend part 4 of its procedure to put it beyond doubt that an internal investigation is sufficient for council's purposes.

Further, regardless of the absence of a definition of 'investigation' for the purpose of clause 5 of the Complaints Procedure, I maintain my view that the process that unfolded in this matter cannot not be taken to amount to an investigation within the ordinary meaning of that term. As such, I maintain my view that the council was not entitled to use clause 5 to pass a resolution that Cr Hull had breached the Code of Conduct.

As such, this file will now be closed.

As noted in my previous letter, should the council engage in the processes required by the Complaints Procedure in future, and should Cr Hull still refuse to comply with any resulting council resolutions, it will be open to you to lodge a fresh complaint with my Office.

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Confidentiality

Please note that the Ombudsman Act imposes certain obligations on my Office and others, including complainants, officers and members of a council, to keep information about my assessments and investigations confidential.

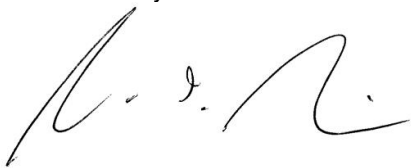
While section 29A of the Ombudsman Act restricts the disclosure of information connected to a matter dealt with under the Act, I am able to authorise disclosure.

As previously advised, this matter will remain confidential, as the council may lodge a further complaint regarding these allegations with my Office in future. However, I authorise disclosure of this matter by you, on a confidential basis to the elected council members of the City of Marion, to allow the council to consider the matter.

If you need to disclose any information about this matter to any other person (other than a person to which section 29A(3)(b) or (c) of the Ombudsman Act applies), you must contact my Office and seek an authorisation to do so.

I have sent a letter to Cr Hull, informing him of my views.

Yours sincerely



Wayne Lines
SA OMBUDSMAN

30 March 2022

Council Member Code of Conduct Procedure for Investigating Complaints



1. RATIONALE

- 1.1 The Code of Conduct for Council Members is set by regulation and applies to all Council Members across local government in South Australia. Depending on the nature of an alleged breach of the Code, a matter may be subject to a Council investigation or an investigation by the Ombudsman or Office of Public Integrity (OPI). This procedure applies when the Council receives a complaint against a Council Member under the Code of Conduct for Council Members as gazetted on 29 August 2013. A copy of the Code is available on the City of Marion's website www.marion.sa.gov.au

2. ALLEGED BREACH

- 2.1 Breaches of the Code of Conduct may relate to behaviour (in Part 2 of the Code) or misconduct (in Part 3 of the Code). Criminal or corruption matters, which are subject to separate legislation, do not form part of the Code of Conduct for Council Members but are referred to in the Appendix of the Code of Conduct.
- 2.2 Where an alleged breach occurs the complainant should report the allegation, in writing to the Chief Executive Officer. The allegation should:
- 2.2.1 Be specific
 - 2.2.2 Provide as much supporting evidence as possible to assist an investigation
 - 2.2.3 Provide the name of the Council Member who has allegedly breach the Code.
- 2.3 Complainants can, at any time, take the alternative option of lodging the complaint with the Ombudsman or Office of Public Integrity (OPI), which will direct the complaint in accordance with the ICAC Act.
- 2.4 On receipt of a complaint, the CEO will be responsible for advising the Mayor and referring the complaint to Council.
- 2.5 When no allegations have been substantiated, Council will consider the matter in confidence.
- 2.6 The Council will consider the matter, in conjunction with legal advice if required, and determine whether the complaint relates to:
- 2.6.1 Behavioural which falls under Part 2 of the Code
 - 2.6.2 Misconduct which triggers action under Part 3 of the Code, or
 - 2.6.3 Criminal or Corrupt behaviour.
- 2.7 Complaints relating to misconduct or criminal behaviour must be referred to the appropriate authorities immediately.
- 2.8 As soon as practical after the receipt of an allegation and prior to the complaint being referred to Council, the Mayor will advise the Council Member who is the subject of the complaint and its substance. If the complaint is about the Mayor, the Deputy Mayor will undertake this function.
- 2.9 A copy of the complaint will be provided to the Council Member and will also be provided to confidentially Council. This may be done in person, via email and/or a Council report.

3. Complaint Assessment

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www.marion.sa.gov.au

Category: Legislative
Owner: Manager Corporate Governance
Authorisation Date: 23 July 2019
Review Date: November 2023

Council Member Code of Conduct Procedure for Investigating Complaints



- 3.1 In undertaking the preliminary assessment of a complaint, the Council may have regard to the following considerations:
- a) whether the complaint is a “code of conduct complaint”,
 - b) whether the complaint is trivial, frivolous, vexatious or not made in good faith,
 - c) whether the complaint discloses prima facie evidence of a breach of the code,
 - d) whether the complaint raises issues that would be more appropriately dealt with by another agency or body,
 - e) whether there is or was an alternative and satisfactory means of redress available to the complainant in relation to the conduct complained of,
 - f) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation or apology,
 - g) whether the issue/s giving rise to the complaint have previously been addressed or resolved,
 - h) whether the conduct complained of forms part of a pattern of conduct,
 - i) whether there were mitigating circumstances giving rise to the conduct complained of,
 - j) the seriousness of the alleged conduct,
 - k) the significance of the conduct or the impact of the conduct for the council,
 - l) how much time has passed since the alleged conduct occurred, or
 - m) such other considerations that the Council considers may be relevant to the assessment of the complaint.

4. ALLEGED BREACH UNDER PART 2

Having regard to the seriousness of the allegation and information provided, the Council will:

- a) seek to resolve the matter internally, including through conciliation or mediation,
- b) refer the matter to an independent person of Council’s choice,
- c) refer the complaint to the Local Government Governance Panel or
- d) dismiss the allegation.

4.1 Internal Response

- 4.1.1 Only matters which are determined to be of a minor nature will be dealt with internally and only with the agreement of the parties.
- 4.1.2 Council may request that the Mayor facilitate a meeting with the complainant and the Council Member and may seek mediation and conciliation between the parties in an attempt to resolve the matter to the satisfaction of all parties. This may be appropriate, for example, where the complainant is also a Council Member.
- 4.1.3 The Mayor must ensure that the principles of natural justice and procedural fairness are observed.

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Council Member Code of Conduct Procedure for Investigating Complaints



- 4.1.4 Where the matter is resolved by the Mayor to the satisfaction of all the parties the matter will be closed and no further action will be taken. The Mayor will send written confirmation to all the parties confirming that the matter has been resolved and provide report the outcome to a public meeting of the Council if appropriate.

Where the matter cannot be resolved in this manner, it will be referred back to Council for further consideration.

- 4.1.5 Where the Mayor is the complainant or the subject of the complaint the internal response will be facilitated by the Deputy Mayor or other Council Member as resolved by Council.
- 4.1.6 If Council determines to resolve a complaint internally, it must be satisfied that it has all relevant facts have been obtained. If Council has outstanding questions, relating to the matter, these must be addressed prior to finalising the complaint.

4.2 Referral to independent person of Council's choice

- 4.2.1 A complaint may be referred by Council to an independent person for investigation.
- 4.2.2 Complaints to an independent person will specify:
- The grounds of the complaint
 - Set out the circumstances of the complaint
 - Be accompanied by any other material that is available to support the complaint.
- 4.2.3 The independent person must ensure that the principles of natural justice and procedural fairness are observed.
- 4.2.4 Following the investigation, a report will be prepared by the independent person and will be provided to Council. The report may recommend to the Council appropriate action in relation to the matter, including the imposition of any of the sanctions available to a Council under clause 2.25 of the Code of Conduct.

4.3 Referral to the Local Government Governance Panel

- 4.3.1 Complaints referred to the Governance Panel will specify the ground/s of the complaint, set out the circumstances of the complaint and be accompanied by any other material that is available to support the complaint. A copy of the Governance Panel's procedures is available on the Governance Panel webpage on the LGA's website under Rules of Engagement. [www.lga.sa.gov.au]
- 4.3.2 The matter will be assessed initially by the Panel Manager who will determine the process to be followed and the person who will deal with the matter. The matter may be dismissed if it is frivolous, vexatious, misconceived or lacking in substance.
- 4.3.3 A complaint that is forwarded to the Governance Panel will be assessed by the Panel Manager in the first instance. The Panel Manager will consider the applicable facts from the material provided and may form a provisional conclusion that further investigation is unnecessary, as it would be unlikely to result in a breach finding. In these circumstances,

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Council Member Code of Conduct

Procedure for Investigating Complaints



Council will consider the recommendation from the Panel Manager and determine whether to proceed to a full investigation.

- 4.3.4 Where a complaint progresses to an investigation, a report will be prepared by the Panel and will be provided to the Council. The report may recommend to the Council appropriate action in relation to the matter, including the imposition of any of the sanctions available to a Council under clause 2.25 of the Code of Conduct.

4.4 Dismiss the allegation.

- 4.4.1 The Council may choose to dismiss a matter only in the circumstances where it is evident that the complaint is frivolous, vexatious, misconceived or lacking in substance. The Council must provide reasoning for undertaking this action.

5. REPORTING TO COUNCIL

- 5.1 At the conclusion of an investigation, Council must resolve if a breach of part 2 of the Code is found, the breach must be the subject of a report to a public meeting of the Council. The Council may, by resolution, take any of the following actions:
- 5.1.1 Take no action and provide the reasons as to why
 - 5.1.2 Pass a censure motion in respect of the Council Member
 - 5.1.3 Request a public apology, whether written or verbal
 - 5.1.4 Request the Council Member to attend training on the specific topic found to have been breached
 - 5.1.5 Resolve to move or suspend the Council Member from a position within the Council (not including the Members Elected position on Council)
 - 5.1.6 Request the member to repay monies to the Council.

6. APPEALS

- 6.1 The Council will not enter into any process of appeal in relation to Part 2 of the Code. If an Council Member is aggrieved by the process and or outcome, they may refer the matter to the Ombudsman for review.

7. PART 3 – MANDATORY CODE (MISCONDUCT)

- 7.1 Any person may report an alleged breach of Part 3 of the Code to the Council, the Ombudsman or Office of Public Integrity. Alleged breaches of this Part made to Council or to the Office of Public Integrity may be referred to the Ombudsman for investigation.
- 7.2 Under the Code of Conduct, a Council Member who is of the opinion that a breach of Part 3 of the Code has occurred, or is currently occurring, must report the breach to the Mayor of the Council or Chief Executive Officer, the Ombudsman or the Office of Public Integrity.
- 7.3 A failure to report an alleged or suspected breach of Part 3 of the Code is in itself a breach under Part 2 of the Code.

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Council Member Code of Conduct Procedure for Investigating Complaints



- 7.4 A failure of a Council Member to co-operate with the Council's process for handling alleged breaches of Part 2 of the Code may be referred for investigation under Part 3.
- 7.5 A failure of a Council Member to comply with a finding of an investigation under this procedure may be referred for investigation under Part 3 of the Code.
- 7.6 Repeated or sustained breaches of Part 2 of the Code by the same Council Member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 7.7 A report from the Ombudsman that finds a Council Member has breached Part 3 of the Code of Conduct must be the subject of a report to a public meeting of the Council. The Council must pass a resolution to give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

8. CRIMINAL MATTERS – APPENDIX TO THE CODE OF CONDUCT

- 8.1 The matters within the Appendix to the Code of Conduct are matters for which a criminal penalty applies. These matters must be reported to the Office of Public Integrity. In addition, allegations of a breach of any of the offence provisions in the *Local Government Act 1999* must be reported to the Office of Public Integrity.
- 8.2 In compliance with the *Independent Commissioner against Corruption Act 2012*, referral of such complaints to the Office of Public Integrity will remain confidential.

9. REFERENCES

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|-------------------------|---|
| Adopted by Council: | 23 July 2019 |
| Next Review: | November 2023 (within 12 months of general election) |
| Version: | 1.2 |
| Previous Version: | Adopted 27 March 2018 |
| Owner: | Manager Corporate Governance |
| Applicable Legislation: | Local Government Act 1999 (sections 59-63) Local Government (General) Variation Regulations 2013 Independent Commissioner against Corruption Act 2012 |
| Related Documents: | Code of Conduct for Council Members Directions of Guidelines issued by ICAC |
| Related Policies: | Caretaker Policy |

10. REVIEW AND EVALUATION

Review November 2023 (within 12 months of general election)

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