

Council Policy (WCC.005)

Code of Conduct

Responsible Officer:

General Manager

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30 December 2024



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1 Purpose

This Code of Conduct sets out the standards of behaviour expected of the Councillors of the West Coast Council, with respect to all aspects of their role.

As leaders in the community, Councillors acknowledge the importance of high standards of behaviour in maintaining good governance. Good governance supports each Councillor's primary goal of acting in the best interests of the community.

Councillors therefore agree to conduct themselves in accordance with the standards of behaviour set out in the Code of Conduct.

This Code of Conduct incorporates the Model Code of Conduct made by Order of the Minister responsible for local government.

2 Scope

This Code of Conduct applies to a Councillor whenever he or she:

- conducts Council business, whether at or outside a meeting;
- conducts the business of his or her office (which may be that of Mayor, Deputy Mayor or Councillor); or
- acts as a representative of the Council.

A complaint of failure to comply with the provisions of the Code of Conduct may be made where the Councillor fails to meet the standard of conduct specified in the Model Code of Conduct.

3 Code of Conduct Legislative Requirements

The code of conduct framework is legislated under the *Local Government Act 1993*. The Act is available to view via the Tasmanian Legislation Website at www.legislation.tas.gov.au.

Tasmanian Councillors are required to comply with the provisions of the Council's Code of Conduct while performing the functions and exercising the powers of his or her office with the council.

The Code of Conduct incorporates the Model Code of Conduct (made by order of the Minister responsible for local government) and may include permitted variations included as attached schedules to the Model Code of Conduct.

The Council must adopt the Model Code of Conduct within 3 months of the Minister making available an amendment or a substitute Model Code of Conduct.

The Council is to review its Code of Conduct within 3 months after each ordinary election.

Council is to provide a copy of the adopted Model Code of conduct to the Director within 14 days of adopting the Model Code of Conduct.

The General Manager is to make a copy of the Council's Code of Conduct available for public inspection, free of charge.

The Council must provide in the Annual Report, a statement of the number of code of conduct complaints that were received and the number that were upheld either wholly or in part during the preceding financial year.

4 Principles of Good Governance

By adopting this Code of Conduct, Councillors commit to the overarching principles of good governance by being:

Accountable – Explain, and be answerable for, the consequences of decisions made on behalf of the community.

Transparent – Ensure decision making processes can be clearly followed and understood by the community.

Law-abiding – Ensure decisions are consistent with relevant legislation or common law, and within the powers of local government.

Responsive – Represent and serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner.

Equitable – Provide all groups with the opportunity to participate in the decision-making process and treat all groups equally.

Participatory and inclusive – Ensure that anyone affected by or interested in a decision has the opportunity to participate in the process for making that decision.

Effective and efficient – Implement decisions and follow processes that make the best use of the available people, resources and time, to ensure the best possible results for the community.

5 West Coast Council's Organizational Values

The principles of good governance, support and align with West Coast Council's organizational values and guide Council in serving the community:

Responsiveness – Responsiveness starts with listening to what our community needs and wants. It means knowing what's happening in our community and having clear lines of communication across our organisation and with other organisations. It means being realistic and upfront about what we can and can't do.

Responsiveness means acting quickly and efficiently on our commitments, taking pride in our work, and following up to ensure the job is complete.

Leadership – Good leadership is everyone’s business. It is grounded in honesty, transparency and two-way communication.

Leadership means respecting organisational policies and setting clear expectations. It’s about understanding the needs of others and being able to work with difference. It means recognising existing expertise and helping everyone to succeed.

Leadership is about responding to change—it means we never stop learning.

Unity of Purpose – Unity of purpose is about working together as one, supporting each other to deliver value to our community.

It means leading by example, both within and outside of work. It is having the right people in the right positions and having trust in our process. Unity of purpose means knowing our core values and working towards shared goals.

For us, unity of purpose means having *pride*—in our organisation, in our purpose and in our work.

Partnership – Partnership means teamwork—knowing one another, believing in one another and working together to attain high standards.

We demonstrate partnership when we care for and support one another, when we recognise that everyone is equal.

Partnership means engaging with our community and working effectively with other organisations and groups. It means sharing responsibility for outcomes and collectively driving change.

Respect and Trust – Respect and trust means informing our community and including them in decisions and changes. It is greeting customers with a smile and helping them with their concerns and problems.

At the organisational level, respect and trust means providing a safe and welcoming environment for people of all education levels, abilities, genders, cultures, religions and sexual/gender orientations.

It means valuing the opinions and judgement of others and dealing with conflict in a positive way.

Consistency – Consistency means planning for and delivering consistent results no matter what challenges come up.

It means a willingness to be flexible and enterprising in the face of disruption—applying checks and balances where required. Consistency means that teams share an understanding of agreed service levels, policies, procedures and benchmarks for quality.

Consistency is treating others fairly. It enables staff to deliver high quality work.

6 Councillor Dispute Resolution

Councillors commit to developing strong and positive working relationships and working effectively together at all times.

Prior to commencing a formal code of conduct complaint, the Councillors who are parties to any disagreement should endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to act in the best interests of the community.

A council's internal dispute resolution process should be the first step that is taken when there is a dispute between Councillors.

A Councillor who is party to any disagreement should request the Mayor or the General Manager to assist that Councillor in resolving the disagreement informally.

If the informal assistance does not resolve the disagreement, the General Manager may, with the consent of the parties involved, choose to appoint an external mediator to assist in the resolution of the disagreement. If an external mediator is appointed, Councillors who are party to the disagreement must strive to cooperate with the mediator and use their best endeavours to assist the mediator and participate in the mediation arranged.

Where a matter cannot be resolved through internal processes, the next step may be to lodge a formal code of conduct complaint.

Councillors should only invoke the provisions of the Code of Conduct in good faith, where it is perceived that another Councillor has not complied with the provisions or intent of the Code of Conduct.

7 Making a Code of Conduct Complaint

- (1) A person may make a code of conduct complaint against one Councillor in relation to the contravention by the Councillor of the relevant council's code of conduct.
- (2) A person may make a complaint against more than one councillor in relation to the contravention by the councillors of the relevant council's code of conduct if all the councillors complained against behaved on a particular occasion in such a manner as to commit the same alleged contravention of the code of conduct.
- (3) A complaint is to-
 - (a) be in writing;
 - (b) state the name and address of the complainant; and
 - (c) state the name of each Councillor against whom the complaint is made; and
 - (d) state the provisions of the relevant code of conduct that the Councillor has allegedly contravened; and
 - (e) contain details of the behaviour of each Councillor that constitutes the

- alleged contravention; and
 - (f) be lodged with the general manager of the relevant council within six months after the Councillor or Councillors against whom the complaint is made allegedly committed the contravention of the code of conduct; and
 - (g) be accompanied by a statutory declaration, signed by the complainant or by each complainant, verifying the accuracy of the information contained in the complaint; and
 - (h) contain details of all efforts made by the complainant to resolve the issue that is the subject of the complaint; and
 - (i) be accompanied by any prescribed fee.
- (4) If the subject matter of the complaint by its nature consists of a series of separate incidents that, taken together, form the subject matter, the period referred to in subsection (3)(f) runs from the most recent of the incidents mentioned in the complaint.
- (5) A complaint must not be made by more than 2 complaints jointly.

Code of conduct complaints are lodged with the General Manager and must comply with legislative requirements, as outlined above.

Once satisfied that the code of conduct complaint meets prescribed requirements, the General Manager forwards the complaint to the Code of Conduct Panel.

8 Costs and Fees

Code of Conduct Complaint Lodgment Fee

The code of conduct complaint lodgment fee is prescribed under Schedule 3 (Fees) of the Local Government (General) Regulations 2015. The lodgment fee is 50 penalty units.

Refund of Conduct Complaint Lodgment Fee

The Council must refund each complainant who has lodged a code of conduct complaint, any fee paid with the lodgment in accordance with section 28V(3)(g), in regard to the specific circumstances listed under section 28ZO.

Costs to Parties

The complainant in a code of conduct complaint and the Councillor against whom the complaint is made are to bear their own costs relating to the investigation and determination of the complaint.

If, as a result of a determination report, a Councillor is required to undergo training, the costs associated with that training are to be borne by the Council.

If, when determining a code of conduct complaint, the Code of Conduct Panel imposes a sanction on a Councillor that requires the Councillor to apologise to a person or attend counselling or a training course, the Councillor must comply with that sanction within the period specified in the determination report.

Penalty: Fine not exceeding 50 penalty units.

Any person who receives an addendum or a determination report must keep the determination report confidential until the report is included within an item on the agenda for a meeting of Council.

Penalty: Fine not exceeding 50 penalty units.

9 Complaints Under the *Local Government Act 1993*

The Director of Local Government is responsible for the investigation of complaints regarding alleged breaches of *the Act*.

Any person can make a complaint to the Director, via the Local Government Division, in accordance with section 339E of *the Act*, where it is genuinely believed that a Council, Councillor or General Manager may have committed an offence under *the Act* or failed to comply with the requirements of *the Act*.

To make a complaint, it is recommended that you first contact the Local Government Division to discuss whether the matter is something that the Division can assist with.

10 Public Interest Disclosure

Any instances of suspected corrupt conduct, maladministration and serious and substantial waste of public resources or substantial risk to public health or safety or to the environment should be reported in accordance with *the Public Interest Disclosures Act 2002*. Disclosures may be made to the Tasmanian Ombudsman or the Tasmanian Integrity Commission.

11 Legislation and Related Documents

Local Government Act 1993

Public Interest Disclosure Act 2002

Local Government (General) Regulations 2015

Local Government (Model Code of Conduct) Order 2016

DPaC Code of Conduct – Information, Forms & Resources

www.dpac.tas.gov.au/divisions/local_government/local_government_code_of_conduct/making_a_code_of_conduct_complaint

WCC Councillor Expenses & Allowances Policy

WCC Acceptance of Gifts & Donations (Councillors) Policy

WCC Declaration of Related Party Transactions and Consent Form

WCC Councillor or Special Committee Member Declaration of Interest Form.

12 Key Contacts

Department of Premier and Cabinet's Local Government Division

15 Murray Street, HOBART TAS 7000

GPO Box 123, HOBART TAS 7001

Phone: (03) 6232 7022 Fax: (03) 6232 5685

Email: lgd@dpac.tas.gov.au

Web: www.dpac.tas.gov.au/divisions/local_government

Local Government Association of Tasmania

326 Macquarie Street, HOBART TAS 7000

GPO Box 1521, HOBART TAS 7001

Phone: (03) 6233 5966

Email: admin@lgat.tas.gov.au

Web: www.lgat.tas.gov.au

The Tasmanian Integrity Commission

Surrey House, Level 2,

199 Macquarie Street, HOBART TAS 7000

GPO Box 822, HOBART TAS 7001

Phone: 1300 720 289

Email: contact@integrity.tas.gov.au

Web: www.integrity.tas.gov.au

Ombudsman Tasmania

NAB House, Level 6,

86 Collins Street, HOBART TAS 7000

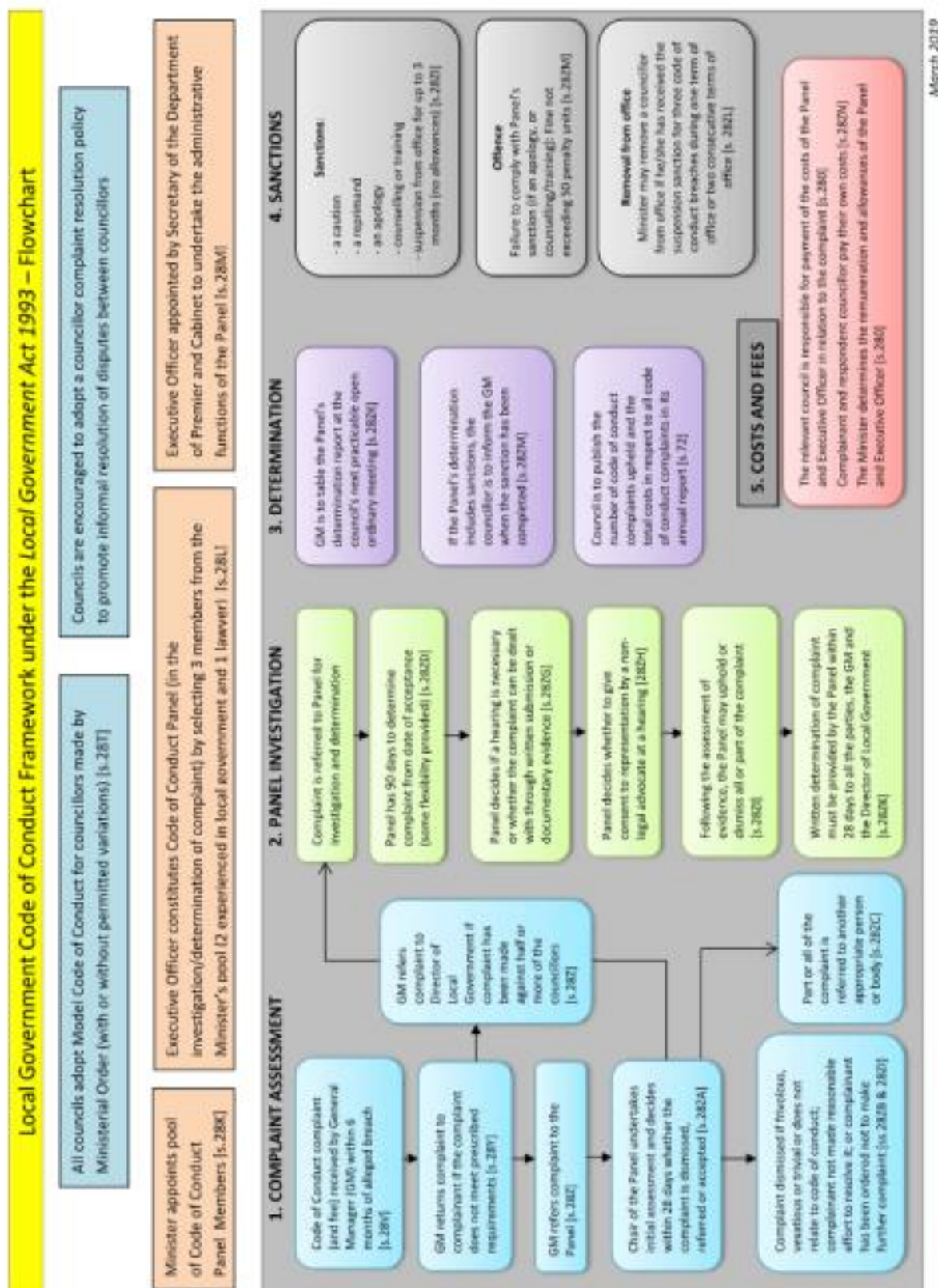
GPO Box 123, HOBART TAS 7001

Phone: 1800 001 170

Email: ombudsman@ombudsman.tas.gov.au

Web: www.ombudsman.tas.gov.au

Appendix 1. Code of Conduct Flow Chart



Appendix 2. Model Code of Conduct

Local Government (Model Code of Conduct) Order 2016

PART 1 - Decision making

- 1.** A councillor must bring an open and unprejudiced mind to all matters being decided upon in the course of his or her duties, including when making planning decisions as part of the Council's role as a Planning Authority.
- 2.** A councillor must make decisions free from personal bias or prejudgement.
- 3.** In making decisions, a councillor must give genuine and impartial consideration to all relevant information known to him or her, or of which he or she should have reasonably been aware.
- 4.** A councillor must make decisions solely on merit and must not take irrelevant matters or circumstances into account when making decisions.

PART 2 - Conflict of interests that are not pecuniary

- 1.** When carrying out his or her public duty, a councillor must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that he or she may have.
- 2.** A councillor must act openly and honestly in the public interest.
- 3.** A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the Council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the Council.
- 4.** A councillor must act in good faith and exercise reasonable judgement to determine whether he or she has an actual, potential or perceived conflict of interest.
- 5.** A councillor must avoid, and remove himself or herself from, positions of conflict of interest as far as reasonably possible.
- 6.** A councillor who has an actual, potential or perceived conflict of interest in a matter before the Council must –
 - (a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and
 - (b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the councillor to remove himself or herself physically from any Council discussion and remain out of the room until the matter is decided by the Council.
- 7.** Part does not apply in relation to a pecuniary interest.

PART 3 - Use of Office

- 1.** The actions of a councillor must not bring the Council or the office of councillor into disrepute.

2. A councillor must not take advantage, or seek to take advantage, of his or her office or status to improperly influence others in order to gain an undue, improper, unauthorised or unfair benefit or detriment for himself or herself or any other person or body.

3. In his or her personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), a councillor must not expect nor request, expressly or implicitly, preferential treatment for himself or herself or any other person or body.

PART 4 - Use of resources

1. A councillor must use Council resources appropriately in the course of his or her public duties.

2. A councillor must not use Council resources for private purposes except as provided by Council policies and procedures.

3. A councillor must not allow the misuse of Council resources by any other person or body.

PART 5 - Use of information

2. A councillor must only access or use Council information needed to perform his or her role and not for personal reasons or non-official purposes.

4. A councillor must only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

PART 6 - Gifts and benefits

1. A councillor may accept an offer of a gift or benefit if it directly relates to the carrying out of the councillor's public duties and is appropriate in the circumstances and is not in contravention of any relevant legislation.

2. A councillor must avoid situations in which a reasonable person would consider that any person or body, through the provisions of gifts or benefits of any kind, is securing (or attempting to secure) influence or a favour from the councillor or the Council.

PART 7 - Relationships with community, councillors and Council employees

1. A councillor –

(a) must treat all persons fairly; and

(b) must not cause any reasonable person offence or embarrassment; and

(c) must not bully or harass any person.

2. A councillor must listen to, and respect, the views of other councillors in Council and committee meetings and any other proceedings of the Council, and endeavour to ensure that issues, not personalities, are the focus of debate.

4. A councillor must not contact or issue instructions to any of the Council's contractors or tenderers, without appropriate authorisation.
5. A councillor must not contact an employee of the Council in relation to Council matters unless authorised by the General Manager of the Council.

PART 8 – Representation

1. When giving information to the community, a councillor must accurately represent the policies and decisions of the Council.
2. A councillor must not knowingly misrepresent information that he or she has obtained in the course of his or her duties.
3. A councillor must not speak on behalf of the Council unless specifically authorised or delegated by the Mayor or Lord Mayor.
4. A councillor must clearly indicate when he or she is putting forward his or her personal views.
5. A councillor's personal views must not be expressed publicly in such a way as to undermine the decisions of the Council or bring the Council into disrepute.
6. A councillor must show respect when expressing personal views publicly.
7. The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council.
8. When representing the Council on external bodies, a councillor must strive to understand the basis of the appointment and be aware of the ethical and legal responsibilities attached to such an appointment.

PART 9 - Variation of Code of Conduct

1. Any variation of this model code of conduct is to be in accordance with section 28T of the Act.