

Council Policy (WCC.CORP.025)

Dispute Resolution Policy

Responsible Officer: General Manager

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1 Purpose

The purpose of this policy is to establish a fair, consistent and transparent process for resolving disputes with, and between, Councillors in accordance with Section 28JA of the Local Government Act 1993 and the Local Government (General) Regulations 2015.

Its purpose is to resolve disputes before they escalate to a Code of Conduct complaint, support respectful, professional behavior by Councillors, and maintain public confidence in Council governance.

2 Scope

This policy applies to disputes with, and between, councillors. Matters of dispute include those under the Code of Conduct and behavior of councillors towards each other, council employees and community members more broadly.

2.1 Relationship to the Code of Conduct

This policy is to support the resolution of disputes with, and between, councillors before a Code of Conduct complaint is lodged.

Where a Code of Conduct complaint is lodged, the *Local Government Act 1993* requires that a complainant details why the outcome from the dispute resolution process was not satisfactory, or if the process was not used, why the dispute resolution process was not appropriate for the circumstances. An exception is where the dispute resolution process is not appropriate to resolve the dispute.

2.2 When this policy may not be appropriate

A Code of Conduct complaint may be required where either party is unable, or unwilling to participate in some, or all, of the dispute resolution process, such as mediated discussions. These reasons will be documented by the Dispute Resolution Officer.

Other matters such as, but not limited to, health and safety risks, criminal misconduct, discrimination, breaches of the *Local Government Act 1993* are to be addressed outside this policy.

3 Principles

The following principles guide the operation of this Policy and apply to all parties involved in a dispute resolution process.

3.1 Procedural Fairness

The principles of procedural fairness (natural justice) will apply when dealing with a dispute under this Policy. In particular:

- The parties in the dispute will be afforded equitable opportunities to be heard;
- Any recommendations, agreements, or dispute resolution plans will be based on genuine consideration of the circumstances and evidence; and
- The roles in the process will support impartiality and fairness.

3.2 Roles

All parties to a dispute resolution process have specific responsibilities that support fairness, transparency, and accountability. Detailed roles are outlined in Section 4 of this Policy.

3.3 Personal and Shared Responsibility

Councillors may hold and express differing, even opposing, views as part of their role in representing the community. Robust debate is part of the democratic process, but Councillors are expected to:

- Conduct debate and interactions respectfully;
- Attempt to resolve issues informally and courteously where possible; and
- Engage in the dispute resolution process in good faith if informal resolution is unsuccessful or inappropriate.

3.4 Confidentiality

All parties will take all reasonable steps to maintain confidentiality during the dispute resolution process to protect the interests of both the complainant and the respondent.

With the mutual agreement of the complainant and respondent, a closed meeting of Council may be advised that the parties are participating in a dispute resolution process.

3.5 Accessibility

Council will ensure that information on how to lodge a dispute, including this Policy and any associated forms, is available:

- At Council's customer service centres;
- On Council's website; and
- In accessible formats if requested.

Any person wishing to lodge a dispute may contact the Dispute Resolution Officer for assistance in completing forms or navigating the process.

3.6 Equitable Access

This Policy recognises that individuals may have different needs and experiences. The dispute resolution process will:

- Address potential power imbalances by appointing an external, neutral Dispute Resolution Advisor;
- Provide for the use of support persons (see Section 4.7);
- Require Dispute Resolution Advisors to demonstrate inclusiveness, gender responsiveness, and trauma-aware practice; and
- Ensure accurate and clear records are maintained

4 Roles

The following roles apply in the operation of this Policy.

4.1 Complainant

The person raising a dispute about a relevant matter. The complainant is responsible for lodging the dispute using the required form and providing sufficient detail for the matter to be considered.

4.2 Respondent

The Councillor(s) who are the subject of the dispute. The respondent is expected to participate in the dispute resolution process in good faith.

4.3 Mayor

As Chairperson of the Council, the Mayor may encourage parties to engage in the dispute resolution process. The Mayor does not manage or facilitate the process but may play a role in encouraging resolution at an early stage.

4.4 General Manager

The General Manager is responsible for:

- Identifying a Council officer to act as the **Dispute Resolution Officer (DRO)**;
- Appointing an alternative officer where the nominated DRO has an actual or perceived conflict of interest;
- Appointing themselves as DRO where no other officer is able to perform the role; and
- Ensuring access to a panel of Dispute Resolution Advisors, either established by Council or by accessing the LGAT provider panel.

4.5 Dispute Resolution Officer (DRO)

The DRO is responsible for managing the administrative aspects of the process, including:

- Receiving and recording disputes;
- Managing documentation and notices to the parties;
- Appointing the Dispute Resolution Advisor; and
- Maintaining records of the process.

The DRO does not have a role in assessing or determining the substance of a dispute.

4.6 Dispute Resolution Advisor (Advisor)

The Advisor is a person external to Council who undertakes the dispute resolution process with the parties. The Advisor must:

- Not be an employee of Council;
- Not have a direct relationship with the parties;
- Be objective and impartial, with no real or perceived bias;
- Be accredited under the **National Mediator Accreditation System (NMAS)** or successor standards, or hold at least a Diploma in Mediation or Dispute Resolution;
- Demonstrate gender-responsive and trauma-aware practice; and
- Possess knowledge of local government and interpersonal skills suitable for dispute resolution.

The Advisor facilitates discussions, mediation, or other resolution processes but does not impose an outcome.

4.7 Support Person

A complainant or respondent may have a support person involved in the process.

- The role of a support person is limited to observing and providing emotional support.
- Support persons must not provide advocacy or legal advice during the process.
- Support persons must not be Australian lawyers.
- The Advisor has discretion to allow, limit, or exclude the involvement of a support person if necessary to uphold the principles of this policy.

5 Procedures

The following procedures outline how a dispute is to be lodged, managed, and resolved under this Policy.

5.1 Lodging and Withdrawing Disputes

- Any person may lodge a dispute regarding a Councillor's behaviour.
- Disputes must be lodged using the **Dispute Resolution Form** (Appendix 1). The form must include:
 - The complainant's name and contact details;
 - The Councillor(s) who are the subject of the dispute; and
 - The part(s) of the Code of Conduct or Behaviour Standards Policy that the alleged behaviour relates to.
- Anonymous disputes will not be accepted. Where a person wishes to remain anonymous, they will be referred to alternative avenues outside this Policy.
- A dispute lodgement fee of **25 fee units** applies (waived in cases of demonstrated financial hardship).
- A complainant may withdraw a dispute at any stage by written notice to the Dispute Resolution Officer (DRO). If the respondent has already been notified, the DRO must also provide them with notice of the withdrawal.

5.2 Notice to Complainant

Within **10 business days** of receiving a dispute, the DRO must provide the complainant with written notice that:

- Acknowledges receipt of the dispute;
- Outlines the process that will be followed;
- Confirms confidentiality requirements under this Policy; and
- Provides a copy of this Policy.

5.3 Notice to Respondent

Within **15 business days** of receiving a dispute, the DRO must provide the respondent with written notice that:

- Advises that a dispute has been lodged in accordance with this Policy;
- Provides a copy of the completed Dispute Resolution Form;
- Outlines the process that will be followed;
- Confirms confidentiality requirements under this Policy; and
- Provides a copy of this Policy.

5.4 Appointment of Dispute Resolution Advisor (Advisor)

The DRO must appoint an independent, external Advisor to manage the dispute resolution process. The Advisor must:

- Meet the requirements set out in Section 4.6;
- Be selected based on suitability for the nature of the dispute;
- Be free from conflicts of interest.

The DRO must provide written notice of the appointment to both parties. Either party may object to the Advisor's appointment if they believe the Advisor does not meet the requirements of this Policy, with reasons provided in writing. The DRO will determine if an alternate Advisor should be appointed.

6 Dispute Resolution Process

6.1 Commencement

The Advisor will commence the process by:

- Meeting individually with each party (if appropriate);
- Conducting an initial joint facilitated discussion or mediation; and
- Assessing whether the process can proceed, based on:
 - The willingness of parties to participate;
 - The health and safety of the parties or others; and
 - Whether the matter is more appropriately addressed through another process (see Section 2.2).

If the Advisor determines that the process cannot continue, they will provide the DRO with a written report outlining the reasons, and may recommend alternative avenues.

6.2 Process

The Advisor will determine the most appropriate process to resolve the dispute, which may include:

- Mediation;
- Facilitated discussions; or
- Restorative or other resolution practices.

Possible outcomes include:

- A commitment to change behaviours;
- A commitment to cease the behaviour;
- A formal apology;
- Undertaking counselling or professional development; or
- A recommendation that Council review relevant policies, procedures, or documents.

The parties must represent themselves in the process. Lawyers are not permitted.

The dispute resolution process should normally be completed within **three months**. This timeframe may be extended only with the recommendation of the Advisor and the mutual agreement of the parties.

6.3 Information Requests

- Councillors and Council staff must respond to reasonable requests from the Advisor for information about the dispute.
- Information pertaining to a third party will require their consent before release.
- The Advisor may request the DRO to access Council's records management system to locate relevant records. Copies of any such records must be provided to both the complainant and the respondent.

6.4 Order of Disputes

Disputes will normally be dealt with in the order received.

- If multiple disputes relate to the same alleged behaviour, the DRO may manage them concurrently, provided confidentiality can be maintained.

6.5 Support Person

- A complainant or respondent may have a support person present throughout the process.
- Support persons must be declared in writing to the DRO, including name, occupation, and relationship to the party.
- Support persons may not be lawyers.
- Their role is limited to observing and providing emotional support.
- The Advisor has full discretion to limit or exclude a support person if their involvement impacts the fairness or effectiveness of the process.

7 Reporting Obligations

7.1 Report from Dispute Resolution Advisor

At the conclusion of a dispute resolution process, the Advisor must provide a confidential written report to the Dispute Resolution Officer and to the parties. The report must include:

- The process and methods used;
- The outcomes of the process, including any commitments made by the parties; and
- The views of the parties on the outcomes.

7.2 Council

In accordance with the Local Government (General) Regulations 2015, Council is required to maintain a record of:

- The number of disputes lodged;
- The number of disputes determined, withdrawn, or underway; and
- The total costs associated with dispute resolution processes.

This information must be included in Council's **Annual Report**.

8 Implementation and Communication

The General Manager is responsible for ensuring the implementation of this Policy, including:

- Establishing and maintaining procedures for receiving and managing disputes;
- Appointing and supporting the Dispute Resolution Officer;
- Ensuring that Councillors and staff are made aware of this Policy; and
- Making this Policy available on Council's website and at Council's customer service centres.

The Policy will also be made available in accessible formats upon request.

9 Approval and Review

- This Policy was formally adopted by Council on **23rd September 2025**
- The Policy will be reviewed **every four years** following the Council election, or earlier if required by legislative or regulatory changes.
- Internal document reference: **WCC.CORP.025**

Dispute Resolution Form

Instructions for Use

This form is for lodging a dispute under West Coast Council's Dispute Resolution Policy.

This form has been provided to ensure that you include all the information required under the *Dispute Resolution Policy* in your dispute. You will need to complete all the sections in this form.

To make a valid dispute, you will need to:

- Complete this form.

- Lodge the dispute with the General Manager of Council within two months of the alleged behaviour by the councillor or councillors.

- Pay the fee for lodging a complaint to the relevant council. 25 fee units (\$46.75 in 2024-2025). The Complainant is to pay via EFTPOS or Cash.

The fee may be waived if the applicant can demonstrate to the satisfaction of the General Manager that they would find it difficult to pay the fee, for example they are receiving income support or are in financial hardship.

Contact Details (of person lodging the dispute – the complainant)

| | |
|------------------------|----------------------------|
| Name: | Telephone (mobile): |
| Address (Residential): | Telephone (work): |
| Address (Postal): | Telephone (home): |
| Email address: | Preferred mode of contact: |

Summary of dispute

| | |
|--|--|
| Name of councillor who you are in dispute with (the respondent): | |
| Part(s) of the Code of Conduct or Council's Behaviour Standard Policy [delete if not applicable] that you believe have been infringed: | |
| Date(s) of incident(s): | |
| Location(s) of incident(s): | |

Details of the dispute (FURTHER INFORMATION MAY BE ATTACHED)

Witnesses (INCLUDE ANYONE WITH KNOWLEDGE OF WHAT HAPPENED)

Have you previously made a dispute about this matter?

Yes NO

If yes, when and to whom did you make the dispute?

Have you made any efforts to resolve the dispute directly with the respondent?

(Note: this section is compulsory. Incomplete forms will be returned)

Yes

Briefly describe the efforts that you have made (**Note: You must complete this section**)

No

Include a brief statement explaining why you have not made any efforts to resolve the issue with the respondent.

Desired outcome of dispute

Please explain what you would like to happen because of lodging this dispute.

Please sign and date

Signature:

Date:

PERSONAL INFORMATION PROTECTION STATEMENT

As required under the Personal Information Protection Act 2004 Personal information will be collected from you for the purpose of dealing with your application and may be used for other purposes permitted by the Local Government Act 1993 and the regulations made by or under that Act.

Failure to provide this information may result in your application not being able to be accepted and processed.

Your personal information will be used for the primary purpose for which it is collected and may be disclosed to contractors and agents of West Coast Council.

Your basic personal information may be disclosed to other public sector bodies where necessary for the efficient storage and use of the information.

Personal information will be managed in accordance with the Personal Information Protection Act 2004, and you may make application for access or amendment to your information in writing to the Manager Organisational Performance, West Coast Council, PO Box 63, Queenstown Tas 7467. You may be charged for this service.
