

## Elected Members' Code of Conduct Policy

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Applicable Legislation	Local Government Act, s59-63 Local Government (General) Variation Regulations 2013 Independent Commissioner against Corruption Act 2012
Related Policies	Elected Members Allowance, Benefits and Support Policy Election Caretaker Policy Fraud and Corruption Prevention Policy Media Policy
Related Documents	Code of Conduct for Council Members, as published in the South Australian Government Gazette 29 August 2013 <i>Directions and Guidelines</i> issued by the Independent Commissioner Against Corruption

### 1. Purpose and scope

This Code of Conduct is a public declaration of the principles of good conduct and standards of behaviour that we, the Members of Coorong District Council, have decided that stakeholders reasonably expect us to demonstrate in the performance of our responsibilities as elected community representatives.

On 1 September 2013, a new Code of Conduct for Elected Members was made by Regulation. The Code of Conduct applies to all Elected Members across the Local Government sector and may be the subject of a Council investigation or an Ombudsman investigation, depending on the nature of the issue. The Code of Conduct also contains sanctions which may be imposed by Council on an Elected Member where a breach of the Code is found to be sustained.

## ***Elected Members' Code of Conduct Policy***

This policy outlines the standards we commit to upholding as well as the procedure which applies when the Council receives a complaint against an Elected Member under the Code of Conduct for Council Members as gazetted on 29 August 2013. (Appendix 1)

### **2. Statement of commitment**

We the Members of Coorong District Council are committed to discharging our duties conscientiously, to the best of our ability and without prejudice.

In the performance of our community role we will act with fairness, honesty, integrity and conduct ourselves in a way that both generates community trust and confidence in us as individuals and enhances the role and image of the Council and Local Government generally.

In addition to all legislative requirements, we the Members of Coorong District Council have adopted the requirements of this code of conduct as the standards that we will adopt in the performance of our role.

### **3. Principles of this Code of Conduct**

#### **3.1 Role of an Elected Member**

##### **3.1.1 Elected Members must act in a fair, honest and proper manner according to the law.**

The primary responsibility for Elected Members is to act in a proper manner according to the law and to be aware of the provisions of the Local Government Act 1999 and various other Acts, regulations and codes of practice that apply to and govern public responsibilities and duties of Council.

In particular Members will:

- 1) understand and give proper consideration to legal requirements in discharge of their duties and responsibilities
- 2) use reasonable, just and non discriminatory behaviour when carrying out roles and responsibilities
- 3) ensure actions to be undertaken will be in good faith and not for improper or ulterior motive
- 4) ensure behaviour that maintains and enhances the image of our Council and does not reflect adversely on the Council
- 5) be impartial in decision making and accept the responsibility that goes with decisions of Council

##### **3.1.2 Elected Members must act with reasonable care and be diligent in the performance of their duties and responsibilities.**

In particular, Members will:

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- a) understand and give proper consideration to the legal requirements of their role and have due regard to the laws dealing with conflict of interest in relation to discharge of duties and behaviours
- b) balance the interests of the community of the whole council area relative to the rights of the individual
- c) attend Council meetings, and apologise or obtain leave of absence in advance for inability to attend
- d) ensure appropriate courteous behaviour at meetings in accordance with the meeting regulations
- e) properly consider the business of the Council and be informed on the matters placed before Council for decision
- f) give careful consideration to the allocation of Council resources
- g) be informed on the effectiveness and efficiency of activities and service delivery
- h) use Council resources, facilities and equipment provided properly and honestly in the performance of the role.

### **3.1.3 Elected Members must be fair and honest in their dealings with individuals and organisations and behave in a manner that facilitates constructive communication between the Council and the community.**

In the course of their duties Elected Members interact with individuals and groups in the local community, State and Federal Government Agencies and other stakeholders. When representing the Council in the wider community a Member must be fair and honest in his or her dealings with individuals and organisations and behave in a manner that facilitates constructive communication between the Council and the community.

In particular Members will:

- a) be courteous and sensitive and will not discriminate against individuals
- b) respect stakeholders' opinions and personal property
- c) recognise that an individual Elected Member has no authority to make decisions, direct staff or commit Council resources
- d) encourage and respect community participation in decision making

When representing the Council in the community Members will:

- a) provide an accurate and fair representation of Council decisions while maintaining the ability to identify a personal view where warranted
- b) recognise that Elected Members have a duty to respect Council decisions and policy directions
- c) conduct themselves in a manner which will not reflect unfavourably on the Council
- d) respect and maintain confidentiality of Council
- e) refrain from making derogatory comments about the views of fellow Members

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### **3.2 Elected Member relationships**

#### **3.2.1 Elected Members and employees will seek to achieve a team approach and environment of mutual respect, trust, and acceptance of their different roles in achieving the Council's objectives.**

The relationship between Members of Council and Council employees will seek to achieve a team approach that values the contribution of each to achieve the desired outcomes for the community. The relationship must be a mature and constructive working relationship based on mutual trust, respect and acceptance of the different but complimentary roles in achieving the Council's objectives. This requires courtesy and respect from all parties.

In particular, Members will:

- a) develop mature and constructive working relationships
- b) conduct the relationship with courtesy, trust and respect
- c) accept and respect their different but complementary roles in achieving the Council's objectives
- d) acknowledge with respect employees' professional opinion and expertise, and their role to supply Council with independent, impartial advice
- e) prevent the misuse of their position to influence employees to gain an advantage for themselves or others, or to cause detriment to Council

#### **3.2.2 Elected Members will establish a working relationship with fellow Elected Members that recognises and respects diversity of opinion and achieves the best outcomes for the community.**

The achievement of good outcomes for the local area is dependent upon a mature and constructive working relationship between Elected Members. The relationship should be one that respects diversity of opinion and recognises the right of differing points of view to be heard with courtesy and respect.

In particular Members will:

- a) conduct relationships with courtesy, respect and mutual trust
- b) seek to establish mature and constructive working relationships
- c) adhere to the right of all points of view to be heard equally
- d) refrain from making derogatory comments about fellow Members

### **3.3 Elected Member use of Information**

#### **3.3.1 Information obtained by Members in the course of their duties is to be respected and used in a careful and prudent manner.**

In the course of his or her duties an Elected Member will obtain information from various sources. Any information obtained as a result of his or her role should be used carefully and prudently. The use of information must balance the interests of the community against the rights of the individual and take into account the requirements of the law. A Member must not use any information gained from their position for private advantage. At all times Members must demonstrate respect and maintenance of confidentiality.

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In particular Members will:

- a) ensure that information obtained as a result of their role is not to be used for any purpose other than Council business
- b) acknowledge that, unless resolved otherwise by Council, only the Mayor is able to make public statements on behalf of the Council
- c) recognise that in their relationships with the media, unless otherwise empowered by Council, the Member is putting forward personal views and not those of the Council
- d) ensure that information given in relation to the Council or Council decisions is accurate and is not a misuse of information
- e) respect and maintain confidentiality as determined by the Council

### **4. Breaches the Code of Conduct**

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. The following procedure covers referral of these types of complaints to other agencies.

#### **4.1 Alleged breach**

**4.1.1** Where an alleged breach occurs the complainant should report the allegation, in writing, to the Council, addressed to the CEO. The allegation should:

- be specific
- provide as much supporting evidence as possible to assist an investigation
- provide the name of the Member who has allegedly breached the Code.

Complainants can, at any time, take the alternative option of lodging the complaint with the Office of Public Integrity (OPI), which will direct the complaint in accordance with the ICAC Act.

**4.1.2** The CEO will be responsible for receiving and managing the referral of a complaint and will advise the Mayor (or if it relates to the Mayor, his/her deputy) of receipt of a complaint. The Mayor (or deputy) will determine whether the complaint relates to:

- behavior which falls under Part 2 of the Code
- misconduct which triggers action under Part 3 of the Code or
- criminal or corrupt behaviour

Complaints relating to misconduct or criminal behaviour must be referred to the appropriate authorities immediately. (See below at clauses 6 and 7)

Council maintains jurisdiction where the complaint deals with conduct that falls into Part 2 of the Code. Part 2 deals with conduct that reflects reasonable community expectations of how Elected Members should conduct themselves. Robust debate within Council which is conducted in a respectful manner is not a breach of this Part.

Having regard to the seriousness of the allegation and information provided, the Mayor may:

NOTE: *Electronic version in the TRIM System is the controlled version  
Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version*

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- seek to resolve the matter internally
- refer the complaint to the Local Government Governance Panel
- dismiss the allegation.

**4.1.3** Within three days of receipt of an allegation, the Member who is the subject of the complaint will be advised by the Mayor of the complaint and its substance. The Member will also be advised of the manner in which the Mayor intends to deal with the complaint.

### **4.2 Alleged Breach of Part 2-Internal response**

**4.2.1** Only matters which are determined to be of a minor nature will be dealt with internally and only with the agreement of the parties. The Mayor may hold meetings with the complainant and the Elected 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 an Elected Member.

**4.2.2** The Mayor must ensure that the principles of natural justice and procedural fairness are observed.

**4.2.3** 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 a report to a public meeting of the Council.

**4.2.4** Where the matter cannot be resolved, the Mayor will refer the original complaint to the Local Government Governance Panel. Neither the Mayor nor the CEO will investigate a complaint.

### **4.3 Part 2 – Referral to the Local Government Governance Panel**

Where there has been an allegation that an Elected Member has breached Part 2 of the Code the complaint may be referred to the independent Local Government Governance Panel by the Mayor under this procedure, without further reference to Council.

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](http://www.lga.sa.gov.au)]

The matter will be assessed initially by the Panel Chairperson 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. 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 (see below).

**4.3.1** A breach of Part 2 of the Code must be the subject of a report to a public meeting of the Council.

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If, following investigation by the Governance Panel, a breach of the Part 2 of the Code is found, the breach must be the subject of a report to the Council (clause 2.24 of the Code). The Council may, by resolution, take any of the following actions:

- Take no action;
- Pass a censure motion in respect of the Elected Member;
- Request a public apology, whether written or verbal;
- Request the Elected Member to attend training on the specific topic found to have been breached;
- Resolve to remove or suspend the Elected Member from a position within the Council (not including the Member's elected position on Council)
- Request the member to repay monies to the Council.

### **4.4 Appeals**

Council will not enter into any process of appeal in relation to Part 2 of the Code.

## **5. Part 3-Mandatory Code (Misconduct)**

**5.1** Any person may report an alleged breach of Part 3 of the Code to the Council, the Ombudsman or the Office for Public Integrity. Alleged breaches of this Part made to Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation.

**5.2** Under the Code of Conduct, an Elected 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 for Public Integrity.

**5.3** 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.

**5.4** A failure of an Elected 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.

**5.5** A failure of an Elected Member to comply with a finding of an investigation under Part 2 of the Code, adopted by the Council, may be referred for investigation under Part 3.

**5.6** Repeated or sustained breaches of Part 2 of the Code by the same Elected Member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.

**5.7** A report from the Ombudsman that finds an Elected 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.

## **6. Criminal Matters – Appendix to the Code of Conduct**

**6.1** The matters within the Appendix to the Code of Conduct are matters for which a criminal penalty attaches. These matters must be reported to the OPI. In addition, allegations of a breach of any of the offence provisions in the *Local Government Act* must also be reported to the OPI. (See Council's *Fraud and Corruption Prevention Policy* for further

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information on reporting requirements or the *Directions and Guidelines* issued by the Independent Commissioner Against Corruption).

- 6.2** In compliance with the Independent Commissioner against Corruption Act 2012, referral of such complaints to the OPI will remain confidential.

### **7. Election Caretaker Policy**

During a Local Government 'election period', Council will assume a 'Caretaker mode', and will avoid actions and decisions which could be perceived as intended to affect the results of an election or otherwise to have a significant impact on or unnecessarily bind the incoming Council.

Coorong District Council has endorsed an 'Election Caretaker Policy'. The purpose of the Policy is to clearly set the parameters that Council will operate within during a Caretaker period. Caretaker provisions are required pursuant to section 91A of the Local Government (elections) Act 1999, and are generally regarded as necessary for the promotion of transparent and accountable government during an 'election period'.

It is a long established democratic principle that outgoing Elected Members should not use public resources for election campaigning, nor make decisions which may unreasonably, inappropriately, or unnecessarily bind an incoming Council.

This Code of Conduct for Elected Members will be read in conjunction with the Elections Caretaker Policy during the Caretaker period.

### **8. Further information**

Any future amendment or alteration (other than mandatory and/or minor) to this policy will be subject to public consultation in accordance with Council's Community Engagement Policy.

This policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: [www.coorong.sa.gov.au](http://www.coorong.sa.gov.au)

Customer Service Centre	Meningie Branch Office	Tintinara Branch Office
93a Railway Terrace Tailem Bend Phone: 8572 3611 Fax: 8572 3822	49 Princes Highway Meningie	37 Becker Terrace Tintinara

Copies will be provided to interested parties upon request. Email [council@coorong.sa.gov.au](mailto:council@coorong.sa.gov.au)

Any grievances in relation to this code of conduct or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

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## **Appendix 1**

### **CODE OF CONDUCT FOR COUNCIL MEMBERS**

*Local Government Act 1999: Section 63 (1)*

NOTICE under Clause 3.10 of the Code of Conduct for Council Members published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999.

For the purposes of Clause 3.10 of the Code of Conduct for Council Members adopted for the purposes of Section 63 (1) of the Local Government Act 1999 and published in the *Gazette* on the day on which this Notice is made, the value of \$100 is specified.

Dated 18 August 2013.

JOHN RAU, Deputy Premier, Minister for Planning

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### **Code of Conduct for Council Members**

*Published by the Minister for Planning for the purposes of Section 63 (1) of the  
Local Government Act 1999.*

#### **This Code of Conduct is to be observed by all Council members.**

Council members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

#### **PART 1—PRINCIPLES**

##### **1. Higher principles—Overarching Statement**

*This part does not constitute separate enforceable standards of conduct.*

Council members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist members to meet their responsibilities under the Local Government Act 1999.

Council members will comply with all legislative requirements of their role and abide by this Code of Conduct.

#### **PART 2—BEHAVIOURAL CODE**

##### **2. Behavioural Code**

In line with 'Part 1—Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council members that does not meet the reasonable community expectations of the conduct of Council members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election.

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### **Appendix 1 continued**

Council members must:

#### **General behaviour**

- 2.1 Show commitment and discharge duties conscientiously.
- 2.2 Act in a way that generates community trust and confidence in the Council.
- 2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
- 2.4 Show respect for others if making comments publicly.
- 2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.

#### **Responsibilities as a member of Council**

- 2.6 Comply with all Council policies, codes and resolutions.
- 2.7 Deal with information received in their capacity as Council members in a responsible manner.
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.

#### **Relationship with fellow Council Members**

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council members.

#### **Relationship with Council staff**

- 2.11 Not bully or harass Council staff.
- 2.12 Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
- 2.13 Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
- 2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

#### **Requirement to report breach of Part 3**

- 2.15 A Council member who is of the opinion that a breach of Part 3 of this Code (Misconduct)— has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 2.16 A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

#### **Complaints**

- 2.17 Any person may make a complaint about a Council member under the Behavioural Code.
- 2.18 Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.
- 2.19 A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.
- 2.20 A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.
- 2.21 A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.
- 2.22 A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.
- 2.23 Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 2.24 A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

## ***Elected Members' Code of Conduct Policy***

### **Appendix 1 continued**

#### **Findings**

- 2.25 If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:
- 2.25.1 Take no action;
  - 2.25.2 Pass a censure motion in respect of the Council member;
  - 2.25.3 Request a public apology, whether written or verbal;
  - 2.25.4 Request the Council member to attend training on the specific topic found to have been breached;
  - 2.25.5 Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);
  - 2.25.6 Request the member to repay monies to the Council.

#### **PART 3—MISCONDUCT**

### **3. Misconduct**

Failure by a Council member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the Local Government Act 1999. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under Section 263 of the Local Government Act 1999, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Council member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions, that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

#### **Member duties**

Council members must:

- 3.1 Act honestly at all times in the performance and discharge of their official functions and duties;
- 3.2 Perform and discharge their official functions and duties with reasonable care and diligence at all times;
- 3.3 Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence;
- 3.4 Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
- 3.5 Not attempt to improperly direct a member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;
- 3.6 Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

#### **Gifts and benefits**

3.7 Council members must not:

- 3.7.1 Seek gifts or benefits of any kind;
  - 3.7.2 Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
  - 3.7.3 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.
- 3.8 Notwithstanding Code 3.7, Council members may accept campaign donations as provided for in the Local Government (Elections) Act 1999.

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### **Appendix 1 continued**

- 3.9 Notwithstanding Code 3.7.3, Council members may accept hospitality provided in the context of performing their duties, including:
- 3.9.1 Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
    - 3.9.1.2 Council work related events such as training, education sessions workshops and conferences;
    - 3.9.1.3 Council functions or events;
    - 3.9.1.4 Social functions organised by groups such as Council committees and community organisations.
  - 3.9.2 Invitations to, and attendance at, local social, cultural or sporting events.
- 3.10 Where Council members receive a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

#### **Register of Interests**

- 3.11 Council members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

#### **Campaign donation returns**

- 3.12 Council members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

#### **Conflict of interest**

- 3.13 Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the Local Government Act 1999.

#### **Misuse of Council resources**

- 3.14 Council members using Council resources must do so effectively and prudently.
- 3.15 Council members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.
- 3.16 Council members must not use public funds or resources in a manner that is irregular or unauthorised.

#### **Repeated or sustained breaches of Part 2**

- 3.17 At the discretion of the Council to which the member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.
- 3.18 A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

## **APPENDIX—CRIMINAL MATTERS**

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

#### ***Breaches of the Local Government Act 1999***

##### **Member duties**

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (3)).

## ***Elected Members' Code of Conduct Policy***

### **Appendix 1 continued**

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (4)).

#### **Provision of false information**

A member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the Local Government Act 1999, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 69).

#### **Restrictions on publication of information from Register of Interests**

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (Section 71).

#### ***Breaches of other Acts***

Acting in his or her capacity as a public officer, a Council member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by Section 5 of the Independent Commissioner Against Corruption Act 2012, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- conspiring with others to effect the commission of the offence.