# Complaints Handling Policy and Procedure under Council Members’ Code of Conduct

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<tr>
<th>Strategic Reference</th>
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| Applicable Legislation | Local Government Act 1999, sections 59-63  
Local Government (General) Variation Regulations 2013  
Independent Commissioner against Corruption Act 2012  
Public Interest Disclosure Act 2018 |
| Related Policies    | Council Members Allowance, Benefits & Support Policy  
Election Caretaker Policy  
Fraud, Corruption, Misconduct and Maladministration Policy |
| Related Documents   | Code of Conduct for Council Members, as published in the South Australian Government Gazette 29 August 2013  
Directions and Guidelines issued by the Independent Commissioner Against Corruption |

## POLICY

### 1. Purpose and scope

The Code of Conduct for Council Members is made by Regulation. The Code of Conduct applies to all Council 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. It also contains sanctions which may be imposed by Council on a Council Member where a breach of the Code is found to be sustained.

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.
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 a Council Member

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

The primary responsibility for Council 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.

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
6) act in a way that generates community trust and confidence in the Council

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

Members will:

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) ensure appropriate courteous behaviour at meetings in accordance with the meeting regulations
d) properly consider the business of the Council and be informed on the matters placed before Council for decision

e) give careful consideration to the allocation of Council resources

f) be informed on the effectiveness and efficiency of activities and service delivery

g) use Council resources, facilities and equipment provided properly and honestly in the performance of the role.

h) understand the long term plans and strategic direction of Council to ensure resourcing and financial management can be maintained

3.1.3 Council 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 Council 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 Council 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 Council 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 public derogatory comments about the views of fellow Members, or decisions made in the Council Chamber in any format, e.g. verbally or print/electronic media

3.2 Council Member relationships

3.2.1 Employees

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 is based on mutual trust, respect and acceptance of the different but complementary roles in achieving the Council’s objectives. Courtesy and respect from all parties will be displayed at all times.
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 in supplying Council with independent, impartial (frank and fearless) advice
e) not use their position to influence employees to gain an advantage for themselves or others, or to cause detriment to Council
f) not bully or harass Council staff
g) direct all requests for information, work or actions to the Chief Executive Officer or delegate/s nominated by the Chief Executive Officer
h) not direct or influence staff with respect to the way these employees perform their duties
i) refrain from making public derogatory comments about employees in any format, e.g. verbally or print/electronic media

3.2.2 Fellow Council Members

Achievement of good outcomes for the District is Council’s priority. Council Members will establish working relationships with fellow Council Members that recognises and respects differing opinions whilst achieving the best outcomes for the community. The relationships shall respect diversity of opinion and recognise the right of differing points of view to be heard with courtesy and respect.

Members will:

a) conduct relationships with courtesy, respect and mutual trust
b) establish mature and constructive working relationships
c) adhere to the right of all points of view to be heard equally
d) not bully or harass other Council Members
e) refrain from making derogatory comments about fellow Members or decisions made in the Council Chamber in any format, e.g. verbally or any print/electronic media

3.3 Council Member use of Information

3.3.1 Information obtained by Members

In the course of the duties as a Council Member information will be obtained from various sources. Any information obtained as a result of the Council Member’s role will 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.

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
Complaints Handling Policy and Procedure under Council Members’ Code of Conduct

b) acknowledge that, unless resolved otherwise by Council, only the Mayor will make public statements on behalf of the Council

c) recognise that in their relationships with the media, unless otherwise empowered by Council, the Member cannot make any public statements on behalf of Council. This includes verbally and written (print /electronic media)

d) Should comment be made, the Council Member must declare these are personal views and not those of the Council whilst ensuring they are acting in a way that generates community trust and confidence in the Council, and showing respect for other Council Members and employees

e) ensure that information given in relation to the Council or Council decisions is accurate and is not a misuse of information

f) respect and maintain confidentiality as legislated and/or determined by the Council
COMPLAINTS HANDLING PROCEDURE

4. Breaches of 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 Appendix 1. The following procedure covers referral of these types of complaints to other agencies.

4.1 Alleged breach

4.1.1 Any person may make a complaint alleging a Council Member has breached the Code. Complaints should be addressed in writing to the Mayor, Chief Executive Officer or Responsible Officer appointed under the Public Interest Disclosure Act 2018 (PID Act) and should:

- be specific;
- provide as much supporting evidence as possible to assist an investigation; and
- provide the name of the Council 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. The Council’s Public Interest Disclosure Policy & Procedure will also apply to an appropriate disclosure of public interest information in accordance with the PID Act.

4.1.2 Where the CEO or Responsible Officer under the PID Act receives a complaint, the Mayor will be advised (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:

- behaviour which falls under Part 2 of the Code;
- misconduct under Part 3 of the Code; or
- criminal or corrupt behaviour;

in accordance with Council’s Public Interest Disclosure Policy & Procedure and PID Act.

Should the complaint be received from the Mayor, the complaint will be presented to the Council under Section 90 of the Local Government Act (confidentially), and the Council will determine whether the complaint relates to:

- behaviour which falls under Part 2 of the Code
- misconduct 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.

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 Council Members should conduct themselves. Robust debate within Council which is conducted in a respectful manner is not a breach of this Part.
Complaints Handling Policy and Procedure under Council Members’ Code of Conduct

Having regard to the seriousness of the allegation and information provided, the Mayor, or if the complaint is from the Mayor, the Council may:

- seek to resolve the matter internally, including through conciliation or mediation;
- refer the complaint to the Local Government Governance Panel;
- refer the complaint to an external investigator; or
- dismiss the allegation.

4.1.3 Within three business days of receipt of a complaint, the Council Member who is the subject of the complaint will be advised by the Mayor (or deputy), or if the complaint is from the Principal Member, the Chief Executive Officer, of the complaint and its substance unless this is prohibited by law. The Council Member will also be advised of the manner in which the Mayor intends to deal with the complaint. If the complaint has been received from the Mayor, the Mayor will be advised of the next Ordinary Meeting of Council at which the complaint will be considered.

4.2 Alleged Breach of Part 2 - Internal response

4.2.1 The Mayor (or deputy) may determine, with the agreement of the parties to deal with a complaint internally. This may involve the Mayor holding meetings with the complainant and the Council Member who is subject of the complaint, and may seek mediation and conciliation 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.

4.2.2 The Mayor (or deputy) must ensure that the principles of natural justice and procedural fairness are observed.

4.2.3 Where the matter is resolved internally to the satisfaction of all the parties, the matter will be closed and no further action will be taken. The Mayor (or deputy) will send written confirmation to all the parties confirming that the matter has been resolved.

4.2.4 Where the matter cannot be resolved, the Mayor (or deputy) may refer the original complaint to the Local Government Governance Panel or an external investigator. Neither the Mayor, deputy 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 a Council Member has breached Part 2 of the Code the complaint may be referred to the independent Local Government Governance Panel or an external investigator by the Mayor (or deputy) under this procedure, without further reference to Council.

Complaints referred to the Local Government Governance Panel or external investigator will as far as practicable specify the ground/s of the complaint, set out the circumstances of the complaint and be accompanied by any other material that the Local Government Governance Panel or external investigator may request.

A complaint that is forwarded to the Governance Panel or independent investigator will be assessed accordingly. The assessor 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, a report will be presented to Council under Section 90 of the Local Government Act (confidential) where Council will consider the recommendation from the Governance Panel or independent investigator and determine whether to proceed to a full investigation.
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Where a complaint does not progress to an investigation, the complainant will be advised and no further action will be required from Council.

Where a complaint progresses to an investigation, a report will be prepared by the Panel or independent investigator and will be provided to the Mayor (or deputy) at the completion of the investigation. The report may recommend to the Council appropriate action in relation to the matter, including imposition of any of the sanctions available to a Council under clause 2.25 of the Code of Conduct.

4.3.1 Should a breach of Part 2 of the Code be found, the breach and recommendation/s must be the subject of a report to a public meeting of the Council pursuant to clause 2.24 of the Code. The report of the Panel or private investigator will not be tabled at the Council meeting in the first instance, however Council may determine through a Motion, for it to be tabled. The outcome of the item will be minuted.

The Council may, by resolution, take any of the following actions:

- take no action;
- pass a censure motion in respect of the Council Member;
- request a public apology, whether written or verbal;
- request the Council Member to attend training on the specific topic found to have been breached;
- resolve to remove or suspend the Council 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.

If a breach has been determined by the Governance Panel, or independent investigator and an action is recommended to be taken by the Council Member, such action is not required to be taken by the Council Member until a resolution of the Council ratifies the recommendation of the Governance Panel or independent investigator, and/or determines additional/alternative action to be taken.

Where a report finds no breach of the Code, the report will not be made public, except at the written request (to the Mayor) of the Council Member who was the subject of the complaint. If such a request is made, a copy of the report will be tabled at the next practicable Council meeting. If no such request is received, no further action will be taken.

The complainant will be notified in writing of the outcome of the investigation, and upon confirmation from the Governance Panel or independent investigator may be provided a copy of the report.

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, 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 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 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.

5.5 A failure of a Council 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 Council 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 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.

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, Corruption, Misconduct and Maladministration Policy for further 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. Further information

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 website: www.coorong.sa.gov.au.

Coorong Civic Centre
95-101 Railway Terrace
Tailem Bend
Phone: 1300 785 277
Fax: 8572 3822

Meningie Information Hub
49 Princes Highway
Meningie

Tintinara Customer Service Centre
37 Becker Terrace
Tintinara

 Copies will be provided to interested parties upon request. Email council@coorong.sa.gov.au.
Appendix 1

CODE OF CONDUCT FOR COUNCIL MEMBERS

Local Government Act 1999: Section 63 (1)

NOTE 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

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 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.
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.
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.
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)).
Complaints Handling Policy and Procedure under Council Members’ Code of Conduct

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).

Breach 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.