

Council Policy P699

Breaches of the Code of Conduct for Council Members, Committee Members and Candidates

Strategic Direction	Leadership
Responsible Business Unit/s	Office of the Chief Executive Officer
Responsible Officer	Chief Executive Officer
Affected Business Unit/s	Office of the Chief Executive Officer, Governance

Policy Objectives

This policy provides the framework for dealing with alleged breaches of Division 3 of the City of South Perth Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

Policy Scope

This policy applies to Council members, Committee Members and Candidates in local government elections.

A complaint about an alleged breach of Division 3 of the Code of Conduct by a candidate in local government elections cannot be dealt with under this policy unless the candidate is elected as Council Member for the City of South Perth (the City).

Policy Provisions

The Code of Conduct guides decisions, actions and behaviours of Council Members, Committee Members and Candidates in local government elections. It provides a mechanism that gives the City the ability to make a finding on complaints regarding the alleged behaviour of Council Members, Committee Members and Candidates that have been elected.

Making a complaint

A complaint about a breach of the Code of Conduct must be:

- Made on the Code of Conduct Breach Form at Attachment A.
- Given to the Chief Executive Officer (CEO).
- Made within one month of after the occurrence of the alleged breach.

Where a complaint is received against a Council Member who has been found to have committed a behavioural breach more than twice after 1 January 2026, the complaint will be referred to the Local Government Inspector in accordance with regulation 6(3) of the *Local Government (Local Government Inspector) Regulations 2025*.

Within 14 days after receiving a complaint, the CEO must give written notice to:

- The Complaint acknowledging that the complaint has been received.
- The Respondent advising a complaint has been made and including a copy of the complaint.

The CEO is to then commence dealing with the complaint in accordance with this policy and Division 3 of the Code of Conduct. Complaints will ordinarily be dealt with in the order that they are received.

Assessment process

The CEO is to engage a suitably qualified independent person or body, external to the City (External Body) to conduct a confidential assessment into the complaint. The Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

The External Body will determine whether the complaint is within jurisdiction, and if not, provide a report to the CEO recommending that the complaint be dismissed.

If the complaint is within jurisdiction, the External Body must ensure that the Respondent is provided with an opportunity to respond to the complaint and submit evidence in support of their response. The External Body is also to provide the Complainant with the opportunity to discuss the complaint.

At the conclusion of the assessment process, the External Body is to provide a confidential report to the CEO.

The External Body must include in the confidential report:

- Findings in relation to the allegation based on available evidence.
- That if a finding alleges that a breach did occur, that it is based on evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur.
- Findings as to whether substantiated allegations amount to a breach of Division 3 of the Code of Conduct.
- Reasons for those findings.

The External Body must also provide recommendations in accordance with clause 12(4) of the Code of Conduct and the reasons for the recommendations in the confidential report. These recommendations must be either:

- Option 1 - that no further action be taken.
- Option 2 - that a plan be prepared to address the behaviour of the person to whom the complaint relates.

If the External Body recommends option 2, the External Body is to recommend either:

- Mediation.
- Counselling.
- Training.
- Other action within the meaning of clause 12(6)(d) of the Code of Conduct.

The role of Council

Within 14 days of receiving the confidential report, the CEO is to provide a copy of the confidential report to the Respondent.

The CEO is then to provide the confidential report from the External Body in confidential item to be considered at the next available Council meeting.

A person who is party to a complaint (Respondent or Complainant) is not permitted to participate in the discussion or decision making procedure relating to the section 5.105(4) of the *Local Government Act 1995* (the Act).

If Council makes a finding that a breach of Division 3 of the Code of Conduct has occurred, it must be based on evidence from which it may be concluded that it is more likely that the breach did not occur.

If Council makes a finding that a breach of Division 3 of the Code of Conduct has occurred, Council may:

- Take no action.
- Prepare and implement a plan under clause 12(4)(b) of the Code of Conduct that incorporates all of the elements of the Plan Recommendation (as recommended by the External Body).
- Prepare and implement a plan under clause 12(4)(b) of the Code of Conduct that incorporates some (but not all) of the elements of the Plan Recommendation (as recommended by the External Body).

It is not open to Council to prepare and implement a plan under clause 12(4)(b) of the Code of Conduct that incorporates elements that do not form part of the Plan Recommendation (as recommended by the External Body).

Should Council determine to impose a plan on the Respondent then that person must be consulted with when that Plan is prepared in accordance with clause 12(5) of the Code of Conduct.

If Council makes a finding in relation to the complaint, the CEO must give the complainant and the Respondent written notice of:

- Council's finding and the reasons for its finding.
- If Council's finding is that the alleged breach has occurred – the Council Plan decision.

Should the Respondent not comply with the plan within a reasonable timeframe, the CEO is to refer the matter to the Local Government Inspector as a breach of clause 23 of the Code of Conduct.

Document Control Box			
Legislation	<i>Local Government Act 1995</i> <i>Local Government (Model Code of Conduct) Regulations 2021</i>		
Organisational:	City of South Perth Code of Conduct for Council Members, Committee Members and Candidates Councillor Code of Conduct Breach Form – Attachment A		
Version #	Decision:	OCM Date:	Resolution Number:
1	Initial Adoption	27 April 2021	0421/065
2	Adoption	28 July 2026	0726/163

Attachment A

Code of Conduct for Council Members, Committee Members and Candidates

Complaint about Alleged Breach Form

DETAILS OF PERSON MAKING THE COMPLAINT	
Surname:	
Given Name(s):	
Address:	
Email:	
Mobile:	

COMPLAINT DETAILS	
Name of Person alleged to have committed the breach:	
Select the position the person was fulfilling at the time the person committed the alleged breach:	
Council Member at the City of South Perth	
Member of a Committee at the City of South Perth	
Candidate for election at the City of South Perth	

Date the alleged breach occurred:	
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Location where the alleged breach occurred:	
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WHICH OF THE BEHAVIOURS PRESCRIBED IN DIVISION 3 OF THE CODE OF CONDUCT DO YOU ALLEGE THIS PERSON HAS BREACHED?

Tick all that apply

CLAUSE 8 PERSONAL INTEGRITY

(1) A council member, committee member or candidate -

(a) must ensure that their use of social media and other forms of communication complies with this code; and

(b) must only publish material that is factually correct.

(2) A council member or committee member —

(a) must not be impaired by alcohol or drugs in the performance of their official duties; and

(b) must comply with all policies, procedures and resolutions of the local government; and

(c) must ensure they are as informed as reasonably possible about matters relating to their role

CLAUSE 9 RELATIONSHIP WITH OTHERS

A council member, committee member or candidate —

(a) must not intimidate, threaten, bully or harass another person in any way; and

(b) must not cause a psychosocial hazard or psychological harm to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and

(c) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and

(d) must not use offensive or derogatory language when referring to another person; and

(e)	must not disparage, belittle and/or denigrate the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and	
(f)	must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.	
CLAUSE 10 COUNCIL OR COMMITTEE MEETINGS When attending a council or committee meeting, agenda briefing, concept forum or workshop, a council member, committee member or candidate —		
(a)	must not act in an intimidating, abusive or threatening manner towards another person; and	
(b)	must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and	
(c)	must not repeatedly disrupt the meeting; and	
(d)	must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings, or any other procedures adopted by council in relation to such meetings; and	
(e)	must comply with any direction given by the person presiding at the meeting; and	
(f)	must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting;	
(g)	must base decisions on relevant and factually correct information	
10A. DISCLOSURE OF POLITICAL PARTY ASSOCIATIONS		
1.	A council member or committee member who is a member of a political party or who is employed by a political party must disclose the membership or employment.	
2.	The disclosure must be made in a written notice to the CEO – (a) within 14 days of - i. the council member being elected to Council; or ii. the committee member being appointed to the committee; or iii. the council member or committee member becoming a member of, or being employed by, the political party; or	

(b) within 14 days of this clause being adopted by the Council as an amendment to this Councillor Code of Conduct,	
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DETAILS OF THE ALLEGED BREACH

You may attach any supporting evidence to your complaint form

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SIGNED

Complainant's signature:

Date of signing:

RECEIVED BY AUTHORISED OFFICER

Authorised officer's name:

Authorised officer's signature:

Date received:

NOTE TO PERSON MAKING THE COMPLAINT:

This form should be completed, dated and signed by the person making a complaint of an alleged breach of the Code of Conduct. The complaint is to be specific about the alleged breach and include the relevant clause/subclause of the alleged breach.

The complaint must be made to the Chief Executive Officer within one month after the occurrence of the alleged breach. The signed complaint form should be marked as confidential and be forwarded to:

Chief Executive Officer
City of South Perth
Cnr Sandgate St and South Terrace
South Perth WA 6151
Email: officeofceo@southperth.wa.gov.au

Conduct Breach, Recurrent Breaches and Specified Breaches – Division 4

These types of complaints are determined by the Local Government Inspector. Please refer to the Local Government Inspector's website for information on how to lodge a Conduct (Recurrent or Specified Breach) Complaint with the Local Government Inspector.