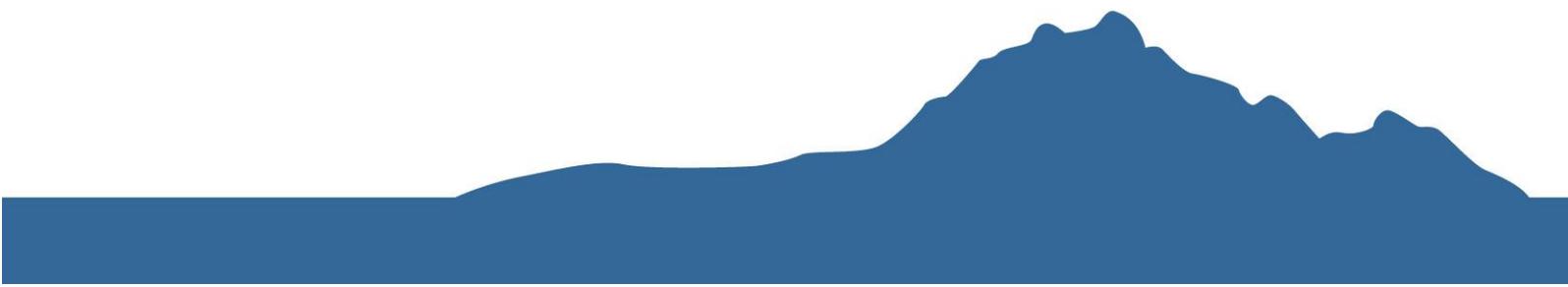




Code of Conduct for Elected Members

Additional Information

June 2016



Code of Conduct for Elected Members

Additional information:

1. Introduction

Purpose

This Code of Conduct for Elected Members, herewith known as the “Code of Conduct”, sets out the standards of behaviour expected of the Councillors of the Flinders Council, with respect to all aspects of their role.

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

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

Legislation

The *Local Government Amendment (Code of Conduct) Act 2015* which commenced on 13 April 2016, incorporates a number of amendments to the *Local Government Act 1993*. These amendments include the *Local Government (Model Code of Conduct) Order 2016*, known herewith as the “Model Code of Conduct”, made by Order of the Minister responsible for Local Government and a new Local Government Code of Conduct Framework for Tasmanian councillors, known herewith as the Code of Conduct Framework. A flowchart depicting the new framework is attached.

The Model Code of Conduct is the Flinders Council Code of Conduct for Elected Members.

Application of Code of Conduct

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

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

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

Standards of conduct prescribed under the Model Code of Conduct

The Model Code of Conduct provides for the following eight standards of conduct:

1. Decision making

A Councillor is to bring an open and unprejudiced mind to all matters being considered in the course of his or her duties, so that decisions are made in the best interests of the community.

2. Conflict of interest

A Councillor effectively manages conflict of interest by ensuring that personal or private interests do not influence, and are not seen to influence, the performance of his or her role and acting in the public interest.

3. Use of office

A Councillor uses his or her office solely to represent and serve the community, conducting himself or herself in a way that maintains the community's trust in the Councillor and the Council as a whole.

4. Use of resources

A Councillor uses Council resources and assets strictly for the purpose of performing his or her role.

5. Use of information

A Councillor uses information appropriately to assist in performing his or her role in the best interests of the community.

6. Gifts and benefits

A Councillor adheres to the highest standards of transparency and accountability in relation to the receiving of gifts or benefits, and carries out his or her duties without being influenced by personal gifts or benefits.

7. Relationships with community, Councillors and Council employees

A Councillor is to be respectful in his or her conduct, communication and relationships with members of the community, fellow Councillors and Council employees in a way that builds trust and confidence in the Council.

8. Representation

A Councillor is to represent himself or herself and the Council appropriately and within the ambit of his or her role, and clearly distinguish between his or her views as an individual and those of the Council.

Principles of good governance

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

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

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

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

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

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

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

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

Consensus oriented – Take into account the different views and interests in the community, to reach a majority position on what is in the best interests of the whole community, and how it can be achieved.

2. Making a Code of Conduct complaint

A person may make a code of conduct complaint against one Councillor in relation to the contravention by the Councillor of the relevant council's code of conduct.

A person may make a complaint against more than one Councillor if the complaint relates to the same behaviour and the same code of conduct contravention.

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

A complaint may not be made by more than two complainants jointly.

A code of conduct complaint is to –

- be in writing;

- state the name and address of the complainant;
- state the name of each Councillor against whom the complaint is made;
- state the provisions of the relevant code of conduct that the Councillor has allegedly contravened;
- contain details of the behaviour of each Councillor that constitutes the alleged contravention;
- be lodged with the General Manager within six months after the Councillor or Councillors against whom the complaint is made allegedly committed the contravention of the code of conduct; and
- be accompanied by the code of conduct complaint lodgement fee.

A Code of Conduct Complaint Form is attached.

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

Code of conduct complaint lodgement fee

The code of conduct complaint lodgement fee is prescribed under Schedule 3 (Fees) of the *Local Government (General) Regulations 2015*. The lodgement fee is 50 fee units (\$75.50 in 2015/16).

3. Further assistance

Councillor dispute resolution

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

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

Council should take the first step and attempt to resolve the dispute internally when there is a dispute between Councillors.

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

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

mediator and use their best endeavours to assist the mediator and participate in the mediation arranged.

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

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

Complaints under the *Local Government Act 1993*

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

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

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

Public Interest Disclosure

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

Information Sheets

A series of Information Sheets relating to the Local Government Code of Conduct Framework and the Model Code of Conduct are available via the Local Government Division's website at http://www.dpac.tas.gov.au/divisions/local_government/local_government_code_of_conduct.

Key contacts

Department of Premier and Cabinet's Local Government Division

Executive Building, 15 Murray Street, HOBART TAS 7000

GPO Box 123, HOBART TAS 7001

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

Email: lgd@dpac.tas.gov.au

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

Local Government Association of Tasmania

326 Macquarie Street, HOBART TAS 7000

GPO Box 1521, HOBART TAS 7001

Phone: (03) 6233 5966

Email: admin@lgat.tas.gov.au

Web: www.lgat.tas.gov.au

The Tasmanian Integrity Commission

Surrey House, Level 2, 199 Macquarie Street, HOBART TAS 7000

GPO Box 822, HOBART TAS 7001

Phone: 1300 720 289

Email: mper@integrity.tas.gov.au

Web: www.integrity.tas.gov.au

Ombudsman Tasmania

NAB House, Level 6, 86 Collins Street, HOBART TAS 7000

GPO Box 123, HOBART TAS 7001

Phone: 1800 001 170

Email: ombudsman@ombudsman.tas.gov.au

Web: www.ombudsman.tas.gov.au

Local Government Code of Conduct Framework under the *Local Government Act 1993* – Flowchart

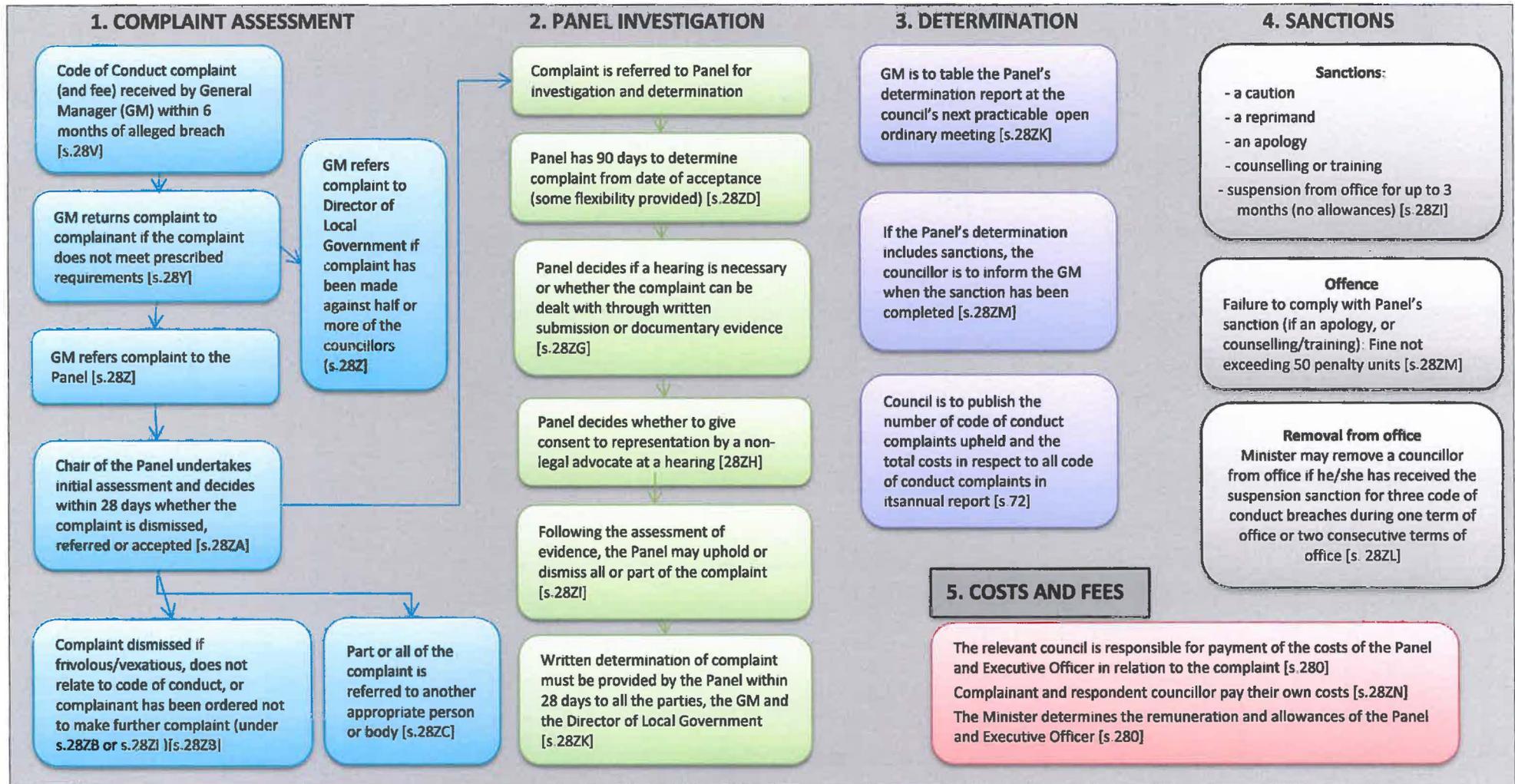
All councils adopt Model Code of Conduct for councillors made by Ministerial Order (with or without permitted variations) [s.28T]

Councils are encouraged to adopt a councillor complaint resolution policy to promote informal resolution of disputes between councillors

Minister appoints pool of Code of Conduct Panel Members [s.28K]

Executive Officer constitutes Code of Conduct Panel (in the investigation/determination of complaint) by selecting 3 members from the Minister's pool (2 experienced in local government and 1 lawyer) [s.28L]

Executive Officer appointed by Secretary of the Department of Premier and Cabinet to undertake the administrative functions of the Panel [s.28M]



LOCAL GOVERNMENT CODE OF CONDUCT COMPLAINT FORM

INTRODUCTION

This form is designed to help you comply with section 28V (Making a code of conduct complaint against councillor) under the *Local Government Act 1993*.

All complaints must be in writing and be lodged within 6 months after the councillor or councillors allegedly committed the contravention of the Council's Code of Conduct.

INSTRUCTIONS

If completing this form by hand, please use black or blue pen and print clearly.

Send your completed form to the General Manager of the Council.

A code of conduct complaint must be accompanied by the prescribed lodgement fee of 50 fee units (\$75.50 in 2015/16).

CONTACT DETAILS (of person making the complaint)

Name:	Telephone (mobile):
Address (Residential):	Telephone (work):
Address (Postal):	Telephone (home):
Email address:	

SUMMMARY OF COMPLAINT

Name of each councillor who you believe has contravened the Council's Code of Conduct <i>(may include more than one councillor if complaint relates to the same behaviour and same code of conduct contravention):</i>	
Provisions of the Council's Code of Conduct that you believe each councillor has contravened:	

Date(s) of incident(s):	
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Location(s) of incident(s):	
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DETAILS OF THE BEHAVIOUR OF EACH COUNCILLOR THAT CONSTITUTES THE ALLEGED CONTRAVENTION (further information may be attached)

WITNESSES (include anyone with knowledge of what happened)

HAVE YOU PREVIOUSLY MADE A CODE OF CONDUCT COMPLAINT ABOUT THIS MATTER?

YES NO

If yes, when did you make the complaint?

DESIRED OUTCOME OF COMPLAINT

Please explain what you would like to happen as a result of lodging this complaint:

PLEASE SIGN AND DATE

SIGNATURE:

Date: