

<b>Policy number</b>	Policy 026
<b>Policy title</b>	Complaints relating to Council Members, Committee Members and Candidates
<b>Strategic outcomes supported</b>	CL3 – Accountability and good governance

## 1. Policy objective:

The objective of this Policy is to:

- 1.1 prescribe the processes for the management of complaints involving council members, committee members and candidates in matters relating to breaches of the Code of Conduct for Council Members, Committee Members and Candidates.
- 1.2 ensure that the complaints management process is timely and follows the principles of natural justice and procedural fairness.

## 2. Policy scope:

- 2.1 This Policy applies to complaints about breaches of the Code of Conduct by Council Members, Committee Members and Candidates occurring on or after 3 February 2021.
- 2.2 This Policy applies to council members, committee members, candidates and any person who submits a complaint in accordance with this Policy.
- 2.3 A person may make a complaint, in accordance with the Code of Conduct by Council Members, Committee Members and Candidates alleging a breach.

## 3. Policy definitions:

In this Policy –

**behaviour breach** means a breach of a behaviour requirement in Division 3 – behaviour, of the Code of Conduct.

**Complaints Officer** means a person authorised in writing under section 5.120 of the *Local Government Act 1995* (LG Act).

**candidate** - an individual is considered a candidate when their nomination for election is accepted by a Returning Officer under section 4.49 of the LG Act. The Code of Conduct applies to the candidate from that point. Any alleged breach may only be dealt with if and when the candidate is elected as a council member.

**Code of Conduct** means the Town of Victoria Park Code of Conduct for Council Members, Committee Members and Candidates.

**committee member** - means a Council Member, employee of the Town of Victoria Park or other person who has been appointed by the Council to be a member of a Committee, in accordance with s.5.10(1) of the LG Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

**complainant** means a person complaining of a breach of the Code of Conduct by a council member, committee member or candidate.

**Complaint** means a complaint made under the Code of Conduct.

**Complaints Panel** means a panel of persons appointed under clause 6.2 to consider and determine Complaints.

**council member** means a person who has been elected as a council member of the local government under the LG Act. This Policy also applies to a council member who is a committee member on a council committee.

**evidence** means the available facts or information which go to indicate whether or not an allegation of a breach is true or valid. The local government must use evidence provided by the complainant and by the respondent, as well as any other available evidence, to decide whether a breach has occurred.

**Investigator** means a person appointed as Investigator under clause 6.1 of this Policy.

**Report** means the report for the council of the outcome of the investigation of a Complaint dealing with the following:

- (1) whether or not the Investigator considers that the behaviour breach the subject of the Complaint has occurred;
- (2) the evidence relied on by the Investigator under clause 12(3) of the Code of Conduct for that conclusion; and
- (3) a recommendation as to whether no further action should be taken on the Complaint, or as to the terms of a plan under clause 12(4)(b) of the Code of Conduct.

Other terms used in this Policy that are also used in the LG Act have the same meanings as they have in the Act unless the contrary intention appears.

**respondent** means a council member, committee member or candidate against or about whom a Complaint is made under clause 4 of this Policy.

## 4. POLICY STATEMENT

- 4.1 The purpose of the Town's Code of Conduct is to guide the decisions, actions and behaviours of council members, committee members, and of candidates running for election as a council member. This policy guides complaints relating to alleged breaches of the Code of Conduct.

## 5. Process for making a complaint about a breach of Division 3 - Behaviour

### 5.1 Initiation of Complaint

- (a) Any person may make a Complaint alleging a behaviour breach.
- (b) A Complaint must be in writing on the Town's approved form – 'Complaint About Alleged Behaviour Breach form' (Appendix 1).
- (c) The complainant must lodge the Complaint with the Town's Complaints Officer.
- (d) The complainant must provide with their Complaint, details of the alleged behaviour breach together with any supporting evidence.
- (e) The Complaint must be lodged within one month of the occurrence of the alleged behaviour breach.
- (f) A Complaint must be submitted by the complainant.

### 5.2 A Complaint cannot be submitted anonymously.

### 5.3 Within 14 days of receiving the complaint, the Complaints Officer:

- (a) must contact the complainant acknowledging that the Complaint has been received;
- (b) as part of the acknowledgment process, must provide the complainant with a copy of this Policy;
- (c) must provide the respondent with a copy of this Policy and a copy of the Complaint (including the name of the complainant); and

(d) must send to the Investigator the Complaint together with details of the alleged breach and any supporting evidence provided by the complainant.

5.4 Complaints are to be dealt with and considered so far as is practicable in an order based on the order in which they are received by the Complaints Officer.

5.5 A Complaint relating to a candidate is only to be referred to an Investigator if and when the candidate is elected as a council member, but in any event the Complaint must be lodged within one month of the occurrence of the alleged behaviour breach.

## **6. Appointment of Investigator or Complaints Panel**

The Complaints Officer is to appoint either:

6.1 A person with relevant knowledge who is:

- not an employee; or
- a current or former elected member of the Town

as Investigator to review and consider one or more Complaints of Division 3 of the Code of Conduct and to provide a report on the outcome of any investigation.

or

6.2 A Complaints Panel of three persons who are not an employee, current or former elected members of the Town, to perform the function of the Investigator under this Policy, at least one of whom must be a person with relevant legal knowledge. A Complaints Panel is to make its decisions by a majority vote and is to appoint one of its number as chair and to perform its consideration and determination on a Complaint in accordance with due process and consistently with the provisions of this Policy.

6.3 The CEO is to deal with the remuneration of an Investigator or the members of a Complaints Panel, and a complaints mediator, in accordance with clause 7.

## **7. Mediation**

7.1 The Investigator must offer mediation to both parties as the first option for dealing with a Complaint and before progressing with the consideration or determination of the Complaint. Mediation can only proceed if agreed to by both parties.

7.2 If issues raised in the Complaint are resolved to the satisfaction of both parties in mediation or otherwise before the determination of the Complaint, the complainant must lodge a Withdrawal of Complaint in writing with the Complaints Officer.

## **8. Investigator making a determination**

8.1 Before making a determination in relation to a Complaint, the Investigator must provide the respondent with an opportunity to respond to the allegations in the Complaint and to provide their own comments and evidence for consideration within 14 days of receiving the Complaint. The Investigator may extend the 14-day period for good reason provided by the respondent.

8.2 After considering a Complaint, the Investigator must make a determination as to whether or not the alleged behaviour breach has occurred.

8.3 The determination must be made within 21 days:

- (a) from receiving a Complaint from the Complaints Officer; or

- (b) from receiving a copy of the response to the allegations by the respondent, whichever is the later. In any case, the Investigator may seek from the CEO such additional time to make a determination as is appropriate in the circumstances of the case.
- 8.4 A determination by the Investigator that the alleged behaviour breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- 8.5 Having made a determination on the alleged behaviour breach, the Investigator must inform the Complaints Officer by providing a determination and reasons for it in a Determination and Reasons Report (**Report**).
- 8.6 The Report must be provided to the Complaints Officer within 14 days of making the determination.
- 8.7 If the Investigator makes a determination that the alleged breach has occurred, the Report must make a recommendation that either:
- (a) no further action be taken; or
  - (b) a plan to address the behaviour of the person to whom the complaint relates be prepared and implemented (**action plan**).
- 8.8 The Investigator may recommend to the council to dismiss a Complaint in accordance with clause 13 of the Code of Conduct.
- 8.9 If the Investigator concludes that the alleged behaviour is an offence under a local law, the Complaint should not be dealt with further as a breach of Division 3, and should be referred back to the Complaints Officer.
- 8.10 The Investigator's deliberations and determination are to be reported to the Complaints Officer.

## 9. Action plans

- 9.1 When preparing an action plan under clause 8.7 of this Policy, the Investigator must consult with the respondent. The respondent must be provided with the opportunity to be involved in matters such as the timing of meetings or training.
- 9.2 An action plan may include a requirement for the respondent to do one or more of the following –
- (a) Engage in mediation;
  - (b) Undertake counselling;
  - (c) Undertake training; or
  - (d) Take other action the local government considers appropriate.
- 9.3 An action plan should be designed to provide the respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives. The plan should outline:
- (a) the behaviour(s) of concern;
  - (b) the actions to be taken to address the behaviour(s);
  - (c) who is responsible for the actions; and
  - (d) an agreed timeframe for the actions to be completed.

## 10. Report provided to council

- 10.1 The Complaints Officer must provide a confidential report to council including:
- (a) a copy of the Complaint;
  - (b) the Report together with the evidence received by the Investigator including any submissions or other communications from the parties;

- (c) The findings of the Investigator on whether a breach of Division 3 - Behaviour has occurred and if so, a recommendation as to the investigators decision under clause 8.7;
- (d) if further action is required, a recommendation must be provided to the Council on an action plan to address the behaviour of the person to whom the Complaint relates.

## 11. Council finding

- 11.1 The council must not make a finding that a behaviour breach has occurred without first giving the respondent a reasonable opportunity to be heard.
- 11.2 A finding that the alleged behaviour breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- 11.3 If the council makes a finding that the alleged breach has occurred, it may resolve to –
  - (a) take no further action; or
  - (b) prepare and implement an action plan recommended by the Investigator with or without modifications as it thinks fit.
- (c) If the council makes a finding that the alleged breach has occurred, it must give reasons for that finding.
- 11.4 The Council must dismiss a complaint if it is satisfied that –
  - (a) The behaviour to which the complaint relates occurred at a council or committee meeting; and
  - (b) Either –
    - (i) The behaviour was dealt with by the person presiding at the meeting; or
    - (ii) The person responsible for the behaviour has taken remedial action in accordance with the Town of Victoria Park Meeting Procedures Local Law 2019.
- 11.5 If the Council dismisses a complaint, the Council must give reasons for its decision.

## 12. Complaints Officer acting on council finding

When the council makes a finding in relation to a Complaint, the Complaints Officer must give the complainant and the respondent written notice of –

- (a) the finding and the reasons for the finding; and
- (b) if the finding is that the alleged breach has occurred, council's decision on the course of action to be taken.

## 13. Confidentiality of Complaints

A complaint relating to a breach of Division 3 – Behaviour of the Code of Conduct is confidential and not to be disclosed.

## 14. Withdrawal of Complaint

- 14.1 A complainant may withdraw their Complaint any time before it is considered by the council.
- 14.2 The withdrawal of a Complaint must be –
  - (a) in writing; and
  - (b) given to the Complaints Officer.

- 14.3 When a Complaint is withdrawn, any details of the Complaint and its withdrawal, should be treated as confidential and not disclosed.

## 15. Compliance with plan requirement

- 15.1 The Complaints Officer is to monitor the actions in timeframes set out in an action plan.
- 15.2 If an action plan includes any of the requirements in clause 9.2 above, failure to comply with that requirement is a breach of clause 23 of the Code and as a breach of the Rules of Conduct is a minor breach under section 5.105(1) of the LG Act.

## 16. Process for making a complaint about a breach of Division 4 – Rules of Conduct

- 16.1 Initiation of Complaint:
- (a) Any person may make a Complaint alleging a Council member, committee member or candidate has breached Division 4 – Rules of Conduct in the Code of Conduct.
  - (b) A Complaint must be in writing on the Complaint of Minor Breach Form (Appendix 2).
  - (c) The complainant must lodge the Complaint with the Town’s Complaints Officer.
  - (d) The complainant must provide:
    - a. Their details
    - b. Who is alleged to have committed the breach
    - c. The contravention that is alleged to have resulted in the breach
    - d. Any other information in support of their complaint.
  - (e) The Complaint under Division 4 – Rules of Behaviour must be lodged within six months of the alleged breach.
- 16.2 The Complaints Officer within 14 days of receiving a Complaint about a breach of Division 4 – Rules of Behaviour must:
- (a) Give to the Complainant written notice that the complaint is to be dealt with as a minor breach;
  - (b) Give to the council member who the complaint relates, a copy of the complaint.
  - (c) Send to the Department of Local Government a copy of the complaint and anything the Complaints Officer has that is relevant to the complaint including, where relevant, details of any 2 or more minor breaches that the council member has previously been found to have committed.
- 16.3 The Local Government Standards Panel will be responsible for conducting investigations into complaints alleging a breach of Division 4 - Rules of Conduct.
- 16.4 A Complainant can withdraw a complaint relating to Division 4 – Rules of Conduct at any time before a standards panel makes a finding in relation to the breach and before any action has been taken under section 5.111 of the *Local Government Act 1995*.
- 16.5 Withdrawal of complaints must be in writing and sent to the member of the primary standards panel who is appointed under the *Local Government Act 1995*.

## 17. Complaints that are inappropriate under this Policy

Complaints such as the following are inappropriate to be dealt with under this Policy:

- (a) Complaints made with the intent of addressing personal grievances or disagreements;
- (b) Complaints made to express dissatisfaction with a council or committee member's lawfully made decisions or performance of their role;
- (c) Serious breaches under section 5.114 of the LG Act; and
- (d) Allegations of corruption.

## 18. Cost in the complaints process

- 18.1 No fee is charged to lodge a Complaint under this Policy.
- 18.2 The Investigator or the members of a Complaints Panel, or a mediator, appointed pursuant to the Policy may charge the Town a fee to cover the costs of dealing with the Complaint whether or not a breach is ultimately found.
- 18.3 Any fee charged by an Investigator or the members of a Complaints Panel, or a mediator, is to be based on the time spent in connection with the Complaint and may be established in advance on a quotation or otherwise in accordance with the Town's purchasing policy.

## Related documents

[Local Government Act 1995](#)

[Local Government \(Model Code of Conduct\) Regulations 2021](#)

[Complaint About Alleged Breach Form \(Appendix 1\)](#)

[Complaint of Minor Breach Form \(Appendix 2\)](#)


[Code of Conduct for Council Members, Committee Members and Candidates](#)

<b>Responsible officers</b>	Chief Executive Officer
<b>Policy manager</b>	Manager Governance and Strategy
<b>Approval authority</b>	Council
<b>Next evaluation date</b>	April 2026

## Revision history

Version	Action	Date	Authority	Resolution number	Report number
1	Adopted	20/04/2021	Council	79/2021	Item 15.5
2	Reviewed and amended	14/12/2021	Council	286/2021	Item 15.3
3	Review and amendeded	12/04/2022	Council	73/2022	Item 15.5
4	Reviewed and amended	21/05/2024	Council	84/2024	Item 11.3





TOWN OF  
**VICTORIA PARK**

### COMPLAINT ABOUT ALLEGED BREACH

**Code of conduct for council members, committee members and candidates**

Schedule 1, Division 3 of the Local Government (Model Code of Conduct) Regulations 2021

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 section/subsection of the alleged breach.

The complaint must be made to the authorised officer within one month after the occurrence of the alleged breach.

The signed complaint form is to be forwarded to [admin@vicpark.wa.gov.au](mailto:admin@vicpark.wa.gov.au)

**NOTE:** A complaint about an alleged breach must be made —

- (a) in writing in the form approved by the local government
- (b) to an authorised person
- (c) within one month after the occurrence of the alleged breach.

Full name of person who is making the complaint	

Contact details of person making the complaint	
Address	
Email	
Contact number	


Name of the local government (city, town, shire) concerned
Town of Victoria Park

Name of council member, committee member, candidate alleged to have committed the breach

Complaint about alleged breach - Code of conduct for council members, committee members and candidates

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 <p>TOWN OF <b>VICTORIA PARK</b></p>	
<p><b>State the full details of the alleged breach</b></p> <p><i>Include the relevant section/subsection of the alleged breach and attach any supporting evidence to your complaint form.</i></p>	
<p><b>Date of alleged breach</b></p>	
<p><b>Complainant's signature</b></p>	
<p><b>Date of signing</b></p>	
<p><b>Received by authorised officer</b></p>	
<p>Authorised officer's name</p>	
<p>Authorised officer's signature</p>	
<p>Date received</p>	
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Government of **Western Australia**  
Local Government Standards Panel

## Complaint of Minor Breach

This form is used to lodge a Complaint of Minor Breach under section 5.107(1) and (2) of the *Local Government Act 1995 (Act)*.

### Important

Completed forms **must** be submitted to the Complaints Officer of the relevant local government within six (6) months of the date of the alleged breach.

Under section 5.123 of the Act, the complaint and its details must be kept confidential until the Local Government Standards Panel (**Panel**) has made an order under section 5.110(6) of the Act or the State Administrative Tribunal has made an order under section 5.117(1) or for the purpose of dealing with the complaint (for example, seeking legal advice) (maximum penalty: \$5,000).

Under section 5.124 of the Act, a person who includes information in a complaint knowing it to be false or misleading in a material particular commits an offence (maximum penalty: \$5,000).

### Complainant details

Title:  Specify other:

Given name:

Family name:

Relationship with the local government:  
Please select  Specify other:

Phone (business hours):

Residential (or postal) address:

Email address:

Preferred method of communication:  
Please select



## Complaint overview

Name of the local government concerned:

Name of council member alleged to have committed breach:

Select the relevant clauses/s alleged to have been breached:

- *Local Government (Model Code of Conduct) Regulations 2021 Schedule 1*

- Clause 17 – Misuse of local government resources
- Clause 18 – Securing personal advantage or disadvantaging others
- Clause 19 – Prohibition against involvement in administration
- Clause 20 – Relationship with local government employees
- Clause 21 – Disclosure of information
- Clause 22 – Disclosure of interests
- Clause 23 – Compliance with plan requirement

- *Local Government (Administration) Regulations 1996*

- Regulation 34D – Contravention of local law as to conduct

Date of alleged breach:

Location of alleged breach (for example, Shire Offices, Council Chambers):

- Meeting type (and name if committee meeting)

- Location

## Details of alleged breach

Describe the nature of the alleged breach and the information that supports the breach.

Are there any further details relevant to the alleged breach that should be considered?  
(For example, please include the Agenda reference if the alleged breach occurred during a council meeting.)

Please attach any documents relevant to your complaint and list anything you have attached here.

Please submit only those documents that support the alleged breach.  
(E.g., meeting agenda, relevant excerpt from meeting minutes, documents.)

Signature

Date

Complaints Officer to complete this section

## Council member personal details

Given name:

Family name:

Local government street address:

Local government postal address:

Phone (business hours):

Email address:

## Position details

Date on which council member last elected:

Date of expiry of council member's term:

Please attach council member's most recent Form 7 – Declaration by elected member of council,  
*Local Government (Constitution) Regulations 1998 Sch 1*

Complaints Officer's full name:

Signature

Date