

COUNCIL POLICY LG541

COMPLAINTS AGAINST COUNCIL MEMBERS, COMMITTEE MEMBERS AND CANDIDATES

KEY FOCUS AREA LEADERSHIP AND GOVERNANCE

Purpose

The purpose of this policy is for Council to:

1. Establish, in accordance with Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and the Town of Claremont's (**Town**) Code of Conduct for Council Members, Committee Members and Candidates (**Code of Conduct**), the procedure for dealing with complaints about alleged breaches of the behaviour requirements in Division 3 of the Code of Conduct.
2. Give effect to the Town's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

Scope

This Policy applies to:

1. Complaints made in accordance with Clause 11 of the Code of Conduct;
2. Council Members, Committee Members, Candidates (if successfully elected as a Council Member) and any person who submits or is involved in a complaint in accordance with this Policy.

Policy

Council will appoint at least 1 authorised Complaints Officer to accept complaints.

1. A Complaints Committee (**Committee**) will be established for the purpose of dealing with complaints.
2. The Committee will have delegated authority to make a finding in relation to an alleged breach of the Code of Conduct and also to dismiss a complaint.
3. The Committee must follow all legislative requirements including those set out in the Code of Conduct, the Act and associated regulations.
4. The Committee will comply with principles of procedural fairness and natural justice.
5. The Committee will take all reasonable steps to ensure complaints are dealt with efficiently, cost effectively and in a timely manner.
6. The Committee will take all reasonable steps to maintain confidentiality when dealing with a complaint. Council Members, Town employees and all others who have a role in handling or investigating a complaint will be provided with sufficient information to fulfil their role. Such persons must manage this information securely and must not disclose or inappropriately use this information.
7. As soon as practicable but within at least 7 days after receiving a complaint, the Complaints Officer will provide written notice to:
 - a. the Complainant, that confirms receipt of the Complaint; and
 - b. the Respondent, that advises a Complaint has been made in accordance with the Code of Conduct and this Policy and includes a copy of the complaint documentation.

8. As soon as practicable after receiving a Complaint, and after any request of the Complainant or Respondent for further information has been complied with, the Complaints Officer will call for a meeting of the Committee, bearing in mind the commitments of the Committee Members.
9. At the meeting, the Committee will consider the information available including the nature of the complaint, the complexity and alleged severity of the matter, the time and cost implications of the various options below and determine:
 - a. whether a finding should be made based on evidence available and bearing in mind requirements for procedural fairness and natural justice;
 - b. whether the complaint should be dismissed for reasons such as it is trivial, frivolous, vexatious or not made in good faith or is not a Code of Conduct complaint;
 - c. whether the complaint should be deferred for reasons such as that another body (Standards Panel, Public Sector Commission, Police, CCC etc.) are investigating or involved in the complaint;
 - d. whether the complaint should be investigated internally by the Town or by an external investigator or lawyer prior to a finding being made;
 - e. whether another course of action is appropriate prior to a finding, given the circumstances known at that time. This may include informal or formal alternative dispute resolution including mediation or conciliation to be overseen by an employee at the Town, another Council Member or an independent person.
10. If the Committee makes a finding that the alleged breach has occurred the Committee may consider the following when deciding to take no further action, or prepare and implement a plan to address the behaviour of the person to whom the complaint relates (**Plan**):
 - a. the nature and seriousness of the breach(es);
 - b. the Respondent's submission in relation to the contravention;
 - c. whether the Respondent has breached the Code of Conduct knowingly or carelessly;
 - d. whether the Respondent has breached the Code of Conduct on previous occasions;
 - e. the likelihood or not of the Respondent committing further breaches of the Code of Conduct;
 - f. personal circumstances at the time of conduct;
 - g. the impact of the conduct on the Complainant;
 - h. the need to protect the public through general deterrence and maintain public confidence in local government and the Town; and
 - i. any other matters which may be regarded as contributing to the conduct or mitigating its seriousness.
11. The Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct. The Plan may also outline:
 - a. the actions to be taken to address the behaviour(s);
 - b. who is responsible for the actions;
 - c. any assistance the Town will provide to assist achieve the intent of the Plan; and
 - d. a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.
12. The Complaints Officer will monitor the actions and timeframes set out in any Plan.

13. The Complaints Officer must provide a written report advising Council of any failure of the Respondent to comply with a requirement included in a Plan.
14. The Committee will report to Council by way of a written report at the conclusion of an investigation. The report will set out a summary of the complaint, the process undertaken and the finding made by the Committee.
15. The Committee will report to Council on any complaints that are withdrawn.
16. The Town will provide access to counsellors for any Council Member, Committee Member or employee involved in a complaint.

Document Control Box			
Legislation:	<i>Local Government Act 1995</i> <i>Local Government (Model Code of Conduct) Regulations 2021</i>		
Organisational:	Code of Conduct for Council Members, Committee Members and Candidates DA 1.1 Complaints Committee Complaints Committee Terms of Reference Flow Chart of Complaints Process		
Version #	Decision:	OCM Date:	Resolution Number:
1.	Adopted	4 May 2021	054/21
2.	Modified	25 July 2023	094/23