

THE BAROSSA COUNCIL ELECTED MEMBER BEHAVIOURAL MANAGEMENT POLICY



1 Purpose

- 1.1 This Policy has been prepared and adopted pursuant to section 262B of the *Local Government Act 1999* (the Act).
- 1.2 This Elected Member Behavioural Management Policy forms part of the Behavioural Management Framework for Elected Members and sets out the approach to the management of complaints about the behaviour of Elected Members.

2 Scope

Mandatory Behavioural Standards for Elected Members

The Behavioural Standards for Elected Members are established by the Minister for Local Government pursuant to section 75E of the Act. These Behavioural Standards form part of the conduct management framework for Elected Members under the Act.

These Behavioural Standards set out minimum standards of behaviour that are expected of all Elected Members in the performance of their official functions and duties. The Behavioural Standards are mandatory rules, with which council members must comply.

Adherence to the Behavioural Standards is essential to upholding the principles of good governance in councils.

A breach of these Behavioural Standards or a Council's Elected Member Behavioural Management Policy:

- will be dealt with in accordance with the Council's Behavioural Management Policy and Process; and
- may be referred to the Behavioural Standards Panel in accordance with section 262Q of the Act.

Elected Members must comply with the provisions of these Behavioural Standards in carrying out their functions as public officials. It is the personal responsibility of Elected Members to ensure that they are familiar with, and comply with, these Standards at all times.

These Behavioural Standards are in addition to, and do not derogate from, other standards of conduct and behaviour that are expected of Elected Members under the Act, or other legislative requirements. Conduct that constitutes, or is likely to constitute, a breach of the integrity provisions contained in the Act, maladministration, or which is criminal in nature, is dealt with through alternative mechanisms.

These Behavioural Standards are designed to ensure Elected Members act in a manner consistent with community expectations and form the basis of behaviour management for Elected Members.

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Constructive and effective relationships between Elected Members, Council employees and the community are essential to building and maintaining community trust and successful governance in the local government sector.

Council members must:

2.1. General behaviour

- 2.1.1. Show commitment and discharge duties conscientiously.
- 2.1.2. Act in a way that generates community trust and confidence in the Council.
- 2.1.3. Act in a manner that is consistent with the Council's role as a representative, informed and responsible decision maker, in the interests of its community.
- 2.1.4. Act in a reasonable, just, respectful and non-discriminatory way.
- 2.1.5. When making public comments, including comments to the media, on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and are not those of the Council.

2.2. Responsibilities as a member of Council

- 2.2.1 Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.
- 2.2.2 Take all reasonable steps to provide accurate information to the community and the Council.
- 2.2.3 Take all reasonable steps to ensure that the community and the Council are not knowingly misled.
- 2.2.4 Take all reasonable and appropriate steps to correct the public record in circumstances where the Member becomes aware that they have unintentionally misled the community or the Council.
- 2.2.5 Act in a manner consistent with their roles, as defined in section 59 of the Act.
- 2.2.6 In the case of the Principal Member of a Council, act in a manner consistent with their additional roles, as defined in section 58 of the Act.
- 2.2.7 Use the processes and resources of Council appropriately and in the public interest.

2.3. Relationship with fellow Council Members

- 2.3.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.
- 2.3.2 Not bully other Council members.
- 2.3.3 Not sexually harass other Council members.

2.4 Relationship with Council employees

- 2.4.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council employees.
- 2.4.2 Not bully Council employees.
- 2.4.3 Not sexually harass Council employees.

2.5 Definitions

For the purposes of these Behavioural Standards, and a Council's Elected Member Behavioural Management Policy and Process, the following definitions apply:

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An Elected Member will be considered to bully other Elected Members or Council employees if:

The Elected Member either, as an individual Elected Member or as a member of a group:

- a) Repeatedly behaves unreasonably towards another Elected Member, or employee;
and
- b) The behaviour could reasonably be considered to be distressing, victimising, threatening or humiliating.

Note -

If this behaviour adversely affects the health and safety of another Elected Member or Council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

An Elected Member will be considered to sexually harass other Elected Members or Council employees if the Elected Member either, as an individual Elected Member or as a member of a group:

- a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another Elected Member, or employee (the person harassed);or
- b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed,

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated.

Note -

If this behaviour adversely affects the health and safety of another Elected Member or council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

2.6 Barossa Council Agreed Behaviours

To compliment the Ministerial Behavioural Standards, Council has agreed and adopted the following behaviours expectations of Elected Members:

- 2.6.1 A cohesive Barossa supported by behaviour of Elected Members in the Chamber and community that presents a team approach, and respectful debate relevant of the matter/s of discussion.
- 2.6.2 Deep respect of each other and staff.
- 2.6.3 Listening to all.
- 2.6.4 At an early stage approaching authorised staff on operational matters, issues, ideas, concerns, customer requests with a solution focus and not seeking to blame.
- 2.6.5 Valuing others, their knowledge, skills and interests.
- 2.6.6 Honourable, collective and open leadership and demonstrating mentorship.

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- 2.6.7 Equality and a mindset of advocating and representing all the Barossa not just a specific interest group, location or area.
- 2.6.8 Respecting policy and process through good conduct, dignity and honour and not 'walking past' behaviours that are not aligned to this document or the legislative standards.
- 2.6.9 Being inclusive, embracing all people and being respectful of all traditions, cultures, and beliefs.
- 2.6.10 As decision makers, present a unified position once the decision is made or openly amended through collaborative, robust and respectful debate: to be clear this does not preclude challenging a decision respectfully and in accordance with the Act in the chamber.

3 Principles

Nothing in this Policy is intended to prevent Elected Members or other interested parties including but not limited to community representatives, residents, visitors to our community, Council employees and volunteers, from seeking to resolve disputes and complaints in a proactive, positive and courteous manner before they are escalated.

The following principles will apply:

- 3.1 Where an interest party considers there has been behaviour that is inconsistent with the behavioural requirements as outlined at Clause 2, the complainant may, in appropriate circumstances, seek to respectfully and constructively raise this issue with the Elected Member concerned, without the need to lodge a formal complaint under this Policy;
- 3.2 If a matter proceeds to a complaint, all Elected Members will continue to comply with this Policy and follow the Elected Members Behavioural Management Process to support the person responsible for managing the complaint;
- 3.3 A consistent approach to the assessment, investigation and resolution of complaints will be adopted to facilitate timely and efficient resolution and minimisation of costs;
- 3.4 Where required, Council may engage the assistance of skilled advisors and support persons in the assessment, investigation and resolution of complaints and avoid adopting an unreasonably legalistic approach.
- 3.5 Ongoing training and relevant resources will be provided to all Elected Members to ensure they have the skills and knowledge necessary to perform their role in accordance with the behavioural requirements and the *Local Government Act 1999*.
- 3.6 Training and relevant support will be provided to persons with specific obligations under this Policy to facilitate the management, reporting and resolution of complaints alleging a breach of the behavioural requirements.
- 3.7 Council will manage complaints under this Policy as per the Elected Member Behavioural Management Process.

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Dispute versus Complaint

- 4.1 It is important to distinguish between a dispute and a complaint. A dispute is generally a difference of opinion or disagreement between two parties. It may involve a heated discussion or some other unsatisfactory exchange between parties but may not amount to conduct inconsistent with the behavioural requirements. Ideally disputes will be handled directly by the parties involved and will not escalate to a complaint requiring action (even informal action) under this Policy. The Mayor (or another person) may play a role in facilitating a resolution to a dispute.
- 4.2 This Policy is intended to deal with matters where conduct is alleged to have been inconsistent with the agreed behaviours outlined in Clause 2 of this Policy and any alleged breach of the Behavioural Standards for Elected Members, rather than where Members of Council have differences of opinion, even when robustly put.

Confidentiality

- 4.3 Complaints made in accordance with this Policy will be managed on a confidential basis until such a time as they are required to be reported to Council in a public meeting in accordance with this Policy or are otherwise lawfully made public or disclosed.
- 4.4 Access to information relating to complaints and information about complaints will be limited to parties to the complaint and individuals with a responsibility within the complaint handling process or as otherwise provided for within this Policy.
- 4.5 A person who has access to information about a complaint (including the complainant and the person complained about) must not directly, or indirectly disclose to any person (including to a council member) that information except:
- 4.3 For the purpose of dealing with the complaint.
 - 4.3 Where required by law.
 - 4.3 For the purpose of obtaining legal advice or legal representation, or medical or psychological assistance from a medical practitioner, psychologist or counsellor.
 - 4.3 Where the disclosure is made to an external party, investigating the complaint, or mediator/conciliator engaged in accordance with this Policy.
 - 4.3 Where the information has been made public in accordance with this Policy or this Policy otherwise authorises or requires the disclosure of the information.
- 4.6 This is not to be confused with formal consideration at a Council Meeting of any matter arising from application of this Policy. Items presented to Council must be assessed on a case-by-case basis in accordance with the requirements of Section 90 of the *Local Government Act 1999*.
- 4.7 A complainant may request their identity be kept confidential from the person complained about. This does not constitute an anonymous complaint. The person responsible for managing the complaint will consider such requests on a case-by-case basis, having regard to any applicable legal requirements.

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- 4.8 For detailed procedural matters, refer to the Elected Member Behavioural Management Process.

5 Responsibilities

- 5.1 The Mayor, Deputy Mayor (if appointed) or other Elected Member appointed by the council as the person responsible for managing complaints is responsible under this Policy to:
- 5.1.1 Perform the tasks bestowed upon the person responsible for dealing with a complaint pursuant to this Policy.
 - 5.1.2 In consultation with the CEO, facilitate access to resources to support impacted parties and resolve the concerns raised in a timely manner prior to the matter becoming serious, or escalating to a formal complaint.
 - 5.1.3 In consultation with the CEO, engage external resources to assist with investigation and resolution of matters.
- 5.2 The CEO (or delegate) is responsible under this Policy to:
- 5.2.1 Manage the administrative receipt, acknowledgement, record keeping and allocation of a complaint lodged in accordance with this Policy.
 - 5.2.2 Facilitate access to external resources to support the resolution of complaints lodged in accordance with this Policy.
- 5.3 The Behavioural Standards Panel Contact Officer (appointed by the council) is responsible under this Policy to:
- 5.3.1 Comply with any lawful request of the Panel for information related to a matter under consideration.
 - 5.3.2 Receive and respond to notices relating to matters under consideration by the Panel.
- 5.4 Where the Behavioural Standards Panel Contact Officer is not the CEO, the Contact Officer should keep the CEO informed of the status of matters under consideration by the Panel.

6 Related Policies and Supporting Documents

- 6.2 Minister's Behavioural Standards for Council Members
- 6.3 Elected Member Behavioural Management Process
- 6.4 Strategic Policy Platform and Expected Behavioural Norms of the Council and its Elected Members
- 6.5 Customer Service Policy
- 6.6 Complaint Handling Process

7 Legislation and References

- 7.2 *Independent Commission Against Corruption Act 2012*
- 7.3 *Local Government Act 1999*
- 7.4 *Ombudsman Act 1792*
- 7.5 *Public Interest Disclosure Act 2018*

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8 Review

- 8.2 This Policy will be reviewed by the Council in consultation with the relevant stakeholders, within four years or more frequently if legislation or Council's need changes.

9 Further Information

- 9.2 This Policy is available on Council's website at www.barossa.sa.gov.au. It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.
- 9.3 Complaints regarding this Policy or its application can be made to the Customer Service team on 8563 8444 or barossa@barossa.sa.gov.au at first instance, who will refer you to the most appropriate officer according to Council's Customer Service Policy.

10 Definitions

Behavioural Management Framework	• The legislative framework within which all council members must operate; • The Behavioural Standards for Council Members, determined by the Minister for Local Government, which apply to all council members in South Australia; • The mandatory Behavioural Management Policy (this document) relating to the management of behaviour of council members and adopted pursuant to section 262B of the Local Government Act; • Optional Behavioural Support Policy (or policies) designed to support appropriate behaviour by council members and adopted pursuant to section 75F of the Local Government Act.
Behavioural requirements	In this document refers collectively and individually to the Behavioural Standards for Council Members, the Behavioural Management Policy and any Behavioural Support Policies adopted by the Council.
Behavioural Standards for Council Members	Established by the Minister for Local Government, and published as a notice in the SA Government Gazette, specifying standards of behaviour to be observed by members of councils; and providing for any other matter relating to behaviour of members of councils.
Frivolous	Includes without limitation, a matter of little weight or importance, or lacking in seriousness.
Misbehaviour	Means, (a) a failure by a member of a council to comply with a requirement of the council under section 262C(1); or (b) a failure by a member of a council to comply with a provision of, or a requirement under, the council's behavioural management policy; or (c) a failure by a member of a council to comply with an agreement reached following mediation, conciliation, arbitration or other dispute or conflict resolution conducted in relation to a complaint under Division 1.
Person responsible for managing the complaint	Means, subject to any resolution of the Council to the contrary – 1. the Mayor; 2. if the complaint relates to or involves the Mayor, the Deputy Mayor; 3. if the complaint relates to or involves the Mayor and Deputy Mayor, another council member appointed by Council.

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Repeated misbehaviour	Means a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2.
Serious misbehaviour	Means a failure by a member of a council to comply with section 75G.
Trivial	Includes without limitation, a matter of little worth or importance; that is trifling; or insignificant.
Vexatious	Includes a matter raised without reasonable grounds or for the predominate purpose of causing annoyance, delay or detriment, or achieve another wrongful purpose.

11 Version History

Number	Date	Description
1	28/11/2022	Adoption of Model Policy under new behavioural provisions of the <i>Local Government Act 1999</i> .
2	16/04/2024	Process components transferred from Policy into a supporting Behavioural Management Process. Added reference to the Minister for Local Government's Behavioural Standards for Council Members