POL-C-184 Complaints Management Relating to Conduct of Council Members, Committee Members and Candidates

1. Purpose

The purpose of POL-C-184 Complaints Management Relating to Conduct of Council Members, Committee Members and Candidates (Policy) is to outline the City of Swan's (City) approach to the management of complaints relating to alleged breaches of the behaviour requirements of the Code of Conduct for Council Members, Committee Members and Candidates (the Code) This includes how a complaint may be lodged, how that complaint will be managed, and if a breach has occurred, what actions may be imposed.

2. Scope

Only complaints that relate to Division 3 of the Code (behavioural complaints) are to be dealt with under this Policy.

Complaints that relate to Division 4 of the Code (conduct complaints), recurrent behavioural breach complaints and specified breach complaints are to be dealt with under the process established by the Local Government Inspector (the Inspector).

3. Policy criteria

3.1 What is a behavioural breach complaint?

3.1.1 A behavioural breach complaint that shows or tends to show conduct on the part of a Council Member in connection with their role as a Council Member or the exercise of their functions as a Council Member that would constitute a breach of the standards of conduct prescribed under Division 3 of the Code if proven.

3.1.2 The following are not behavioural breach complaints for the purposes of this Policy:

a) Complaints about the standard or level of service provided by Council or a Council Member.

b) Complaints that relate solely to the merits of a decision made by Council or the exercise of a discretion by Council or a Council Member.

c) Complaints about the policies or procedures of Council.

d) Complaints about the conduct of a Council Member arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the Code.

e) A matter that is addressed by the Presiding Member during a meeting.

f) Where a Council Member complies with a request for remedial action in accordance with the relevant law, or Council resolution.

3.2 How to make a behavioural breach complaint

3.2.1 Any person can make a behavioural breach complaint concerning a Council Member's conduct under Division 3 of the Code (Complainant).

3.2.2 Any complaint must be lodged within one month of the alleged behavioural breach occurring.

3.2.3 Complaints about an alleged behavioural breach should be made to either the Inspector or the person authorised to receive behavioural breach complaints on the Council's behalf.

3.2.4 A behavioural breach complaint must be submitted on the prescribed form with sufficient supporting information to enable assessment of the complaint.

3.2.5 All relevant information needs to be included in the complaint for it to be investigated and responded to appropriately. It is important to provide as much detail as possible, as the complaint will form part of the evidence considered by either Council, a Committee of Council or the person authorised to deal with behavioural breach complaints on the Council's behalf when deciding whether a breach of the Code has occurred.

3.3 Complaint management principles

3.3.1 Any person who believes a Council Member has breached Division 3 of the Code can make a complaint.

3.3.2 Complaints can be made without fear of retribution.

3.3.3 Complaints will be responded to in a timely manner.

3.3.4 Complaints will be managed in a fair, objective, equitable and consistent manner.

3.3.5 The confidentiality and privacy of complainants will be protected.

3.3.6 Ensure the application of natural justice and procedural fairness.

3.4 Who can deal with a behavioural breach complaint

3.4.1 Council can authorise by absolute majority decision, a committee of the Council comprising of Council Members only to perform a function or functions as per clauses 12 and 13 of the Code of Conduct.

3.4.2 Council can authorise by absolute majority decision, a person who is not any of the people listed in clause 14B (3) of the City's Code of Conduct to perform a function or functions as per clauses 12 and 13 of the Code of Conduct.

3.4.3 When authorising a person under clause 3.4.2 above, Council's resolution must include the following:

a) a statement to the effect that Council is satisfied that the person(s) being authorised are suitably qualified and experienced to perform the function;

b) an explanation as to why Council is satisfied as referred to in 3.4.3 (a) above; and

c) a statement to the effect that Council is satisfied that the person being authorised is impartial and has no close association with any member of Council or any employee of the City.

3.4.4 Council will set aside money in the annual budget for this purpose.

3.5 How behavioural breach complaints are managed

3.5.1 Complaint initiated

a) On receipt of a complaint, the authorised person will, within 14 days, acknowledge receipt of the complaint and forward to the person authorised to deal with behavioural breach complaints.

3.5.2 Council finding

a) The Council will consider the complaint information and make a finding as to whether the conduct did or did not constitute a behavioural breach of the Code.

b) Council must be satisfied that it is more likely than not that a breach occurred.

c) If an alleged behavioural breach has occurred, Council may resolve to:

i. take no further action; or

ii. prepare and implement a plan to address the behaviour of the Council Member to whom the complaint relates.

d) When making a finding in relation to the complaint, Council must give the complainant, and the Council Member to whom the complaint relates, written notice of:

i. its finding and the reasons for its finding; and

ii. if the finding is that the alleged breach has occurred, its decision under clause 3.5.2 c).

3.5.3 How Council considers complaints

a) It is important to understand that Council, an authorised committee of Council or Council's authorised person does not have any powers to investigate complaints.

b) Decisions can only be made based on the evidence presented to it in complaints and in responses from Council Members who are the subject of complaints.

c) Decisions are based on an evaluation of whether it is more likely that the alleged breach occurred than that it did not occur, based on the evidence available.

d) It is important that individuals include as much relevant and verifiable information and evidence as possible on the form and in responses and submissions to Council's authorised person, as Council is reliant on the authorised person's report in making its determination.

e) Evidence may include copies of meeting agendas and minutes, audio/video recordings or transcripts from meetings, copies of correspondence such as letter or e-mails and other information.

f) Personal opinions, suspicions about motives and other non-factual information cannot be considered when assessing the complaint and should not be submitted.

g) The decision will be made on the evidence provided and recommendations made in the report prepared by Council's authorised person. No additional submissions or deputations will be permitted. Both Complainant and Respondent to the complaint for Council decision are not permitted to be present during the debate or vote on the matter.

3.6 Action plans

3.6.1 Where Council determines an action plan is to be prepared and implemented, consultation must be undertaken with the Council Member to whom the plan relates.

3.6.2 The action plan is to be designed to provide the Council Member with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives. It is not to include measures that are intended to be a punishment.

3.6.3 The action plan is to 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.

d) An agreed timeframe for the actions to be completed.

3.7 Withdrawal of complaints

3.7.1 A Complainant may withdraw their complaint at any point prior to Council making a finding.

3.7.2 Withdrawal of complaints must be in writing and submitted to the person authorised by Council to accept the withdrawal of complaints.

3.8 Confidentiality

3.8.1 To ensure procedural fairness, lodgement and details of complaints lodged are to remain confidential until such time as Council determines otherwise.

3.8.2 The following persons must not directly or indirectly disclose or use information that the complaint has been made or information about any detail of the complaint:

a) a Complainant; or

b) an individual who is the subject of a complaint; or

c) a person who performs a function under the Act in respect of a complaint; or

d) a person who, as a result of anything done under the Act, becomes aware of any details of a complaint knowing it to be relevant to the complaint.

3.8.3 Disclosure or use of information is permitted if it is:

a) already in the public domain; or

b) statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.

3.8.4 Disclosure or use of information is permitted in certain circumstances as set out in section 8A.36(6) of the Act.

3.8.5 The Complainant's contact information will not be provided to the Respondent. Only their name will be provided.

3.8.6 The Complainant's name and contact information will not be included in any publicly available documents.

3.9 Candidates

3.9.1 An individual is considered a candidate when their nomination for a local government election is accepted by the Returning Officer under section 4.49 of the Act. The Model Code applies to the individual from that point.

3.9.2 Any alleged breach by a candidate of the Model Code may only be addressed by Council if the individual is declared elected as a Council Member.

3.10 Failure to comply with a plan

3.10.1 When a person fails to comply with a plan, the matter is to be referred to the Inspector as a conduct breach,

3.11 Recurrent behavioural breach allegation

3.11.1 If the Council Member is found to have breached behaviour standards on at least two occasions since 1 January 2026, the matter is to be referred to the Inspector.

3.11.2 If the Inspector believes the new complaint should be treated more seriously, the complaint will be referred to the Principal Adjudicator to be dealt with as if it were alleging a conduct breach.

3.12 Recordkeeping and reporting

3.12.1 If a breach has been determined by the Council, the finding and any required action will be made public on the City's website (where breaches are registered). The City must publish on its website:

a) any breach findings against Council Members; and

b) any orders made.

3.12.2 The City will report on the number of complaints received and assessed and the number of breaches in its annual report.

3.13 Right of review

3.13.1 The Act does not currently provide a specific statutory right of appeal to the State Administrative Tribunal (SAT) for a decision made by Council regarding a behavioural breach in the same way it does for other types of breaches.

3.13.2 Where a behavioural breach is treated as a conduct breach as per clause 3.11, both the complainant and the respondent have a statutory right to apply to SAT for a review of the adjudicator's decision to make an order.

Document control

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Compliance requirements:			
Legislation:	Local Government Act 1995 Local Government (Model Code of Conduct) Regulations 2021 Local Government (Local Government Inspector) Regulations 2025		
Industry:	Ombudsman Western Australia Guidelines on Complaint Handling ISO 10002:2018 – Quality management – Customer satisfaction – Guidelines for complaints handling in organisations		
Organisational:	Code of Conduct – Council Members, Committee Members and Candidates 2026 POL-C-141 Council Member Allowances, Expenses and Recognition POL-C-169 Election Caretaker Provisions POL-C-173 Council Member Professional Development and Training POL-C-172 Attendance at Events – Council Members and CEO		
Strategic Community Plan:	G2 – Leadership and good governance		