

Elected Member Behavioural Management Policy



1. PURPOSE

The Elected member Behavioural Management Policy sets out the approach to the management of complaints about the behaviour of **elected members** at the City of Tea Tree Gully, where there has been an alleged breach of the **behavioural requirements** for **elected members**. These procedures do not apply to complaints about Council employees or the Council as a whole.

Nothing in this Policy is intended to prevent **elected members** from seeking to resolve disputes and complaints in a proactive, positive and courteous manner before they are escalated.

2. POLICY

The Behavioural Management Policy forms part of the **Behavioural Management Framework** for **Elected members**.

2.1 Behavioural Standards

Upon election, **elected members** in South Australia undertake to faithfully and impartially fulfil the duties of office in the public interest, to the best of their judgment and abilities and in accordance with the **Act**. **Elected members** are required to act with integrity, serve the overall public interest and provide community leadership and guidance. The community expects **elected members** to put personal differences aside, to focus on the work of the Council and to engage with each other and council employees in a mature and professional manner.

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Behavioural Standards are established pursuant to section 75E of the **Act** and are published in the [SA Government Gazette](#). They set out minimum standards of behaviour that are expected of all **elected members** in the performance of their official functions and duties as public officials. The Behavioural Standards are mandatory rules, with which **elected members** must comply. It is the personal responsibility of **elected members** to ensure that they are familiar with, and comply with, these Standards at all times.

Elected members must:

1. General behaviour

- 1.1 Show commitment and discharge duties conscientiously.
- 1.2 Act in a way that generates community trust and confidence in the Council.
- 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.
- 1.4 Act in a reasonable, just, respectful and non-discriminatory way.
- 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. Responsibilities as a member of Council

- 2.1 Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.
- 2.2 Take all reasonable steps to provide accurate information to the community and the Council.
- 2.3 Take all reasonable steps to ensure that the community and the Council are not knowingly misled.
- 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.
- 2.5 Act in a manner consistent with their roles, as defined in section 59 of the **Act**.
- 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**.
- 2.7 Use the processes and resources of Council appropriately and in the public interest.

3. Relationship with fellow Elected members

- 3.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all **elected members**.
- 3.2 Not bully other **elected members**.
- 3.3 Not sexually harass other **elected members**.

4. Relationship with Council employees

- 4.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council employees.
- 4.2 Not bully Council employees.
- 4.3 Not sexually harass Council employees.

2.2 Principles

The following principles will apply:

- a. Where an **elected member** considers there has been behaviour that is inconsistent with the **behavioural requirements**, an **elected member** may, in appropriate circumstances, seek to respectfully and constructively raise this issue with the member concerned, without the need to lodge a complaint under this Policy;
- b. If a matter proceeds to a complaint, all **elected members** will continue to comply with the procedures set out in this Policy and support the person responsible for managing the complaint;
- c. a consistent approach to the assessment, investigation and resolution of complaints will be adopted to facilitate timely and efficient resolution and minimisation of costs;
- d. 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.
- e. 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 **Act**.
- f. 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**.

Council will manage complaints under this Policy with as little formality and technicality and with as much expedition as the requirements of the matter and the **Act** allow and with proper consideration of the matter. Council is not bound by rules of evidence but will inform itself in the manner considered most appropriate given the nature of the complaint (refer section 262(3) of the **Act**).

Refer to the Caretaker Policy regarding how a complaint may be treated during an election period (as defined under that Policy), which may differ from the process defined in this procedure.

2.3 Dispute vs Complaint

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.

This Policy is intended to deal with matters where conduct is alleged to have been inconsistent with the **behavioural requirements**, rather than where members of council have differences of opinion, even when robustly put.

2.4 Confidentiality

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.

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.

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 **elected member**) that information except:

- a. For the purpose of dealing with the complaint
- b. Where required by law
- c. For the purpose of obtaining legal advice or legal representation, or medical or psychological assistance from a medical practitioner, psychologist or counsellor
- d. Where the disclosure is made to an external party, investigating the complaint, or mediator/conciliator engaged in accordance with this Policy
- e. Where the information has been made public in accordance with this Policy or this Policy otherwise authorises or requires the disclosure of the information.

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 **Act**.

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.

Anonymous complaints will not be investigated by the Council unless required by law.

2.5 Complaint Management Process - Stages of Action

This Policy has three distinct stages to the approach that will be taken to address complaints about the behaviour of **elected members**:

- a. **Part 1: Informal Action**: Where the matter can be resolved directly between the parties.
- b. **Part 2: Formal Action**: Where the matter cannot be resolved using informal action and a formal process of consideration is required.
- c. **Part 3: Referrals to the Behavioural Standards Panel**: the circumstance under which the Mayor, the Council or other authorised person(s) will make a referral.

Community members can lodge a complaint with the Council in accordance with this Policy but cannot lodge a complaint directly with the Behavioural Standards Panel.

2.6 Part 1 – Informal action

Council encourages informal resolution of concerns regarding behaviour alleged to be contrary to the **behavioural requirements**. A person may therefore consider raising the matter directly with the **elected member** concerned.

Alternatively, a person may raise their concern with the Mayor on an informal basis. If the concerns relate to or involve the Mayor the person may raise the matter with the Deputy Mayor (if appointed) or other **elected member** appointed by the Council as the person responsible for managing complaints under this Policy.

If the Mayor or **person responsible for managing the complaint** considers that access to resources to support impacted parties and facilitate early resolution of the matter should be provided, the Mayor or **person responsible for managing the complaint** will request the **CEO** to facilitate access to relevant resources. The **CEO** will not refuse any reasonable request for resources made in accordance with this Policy.

Where the Mayor or **person responsible for managing the complaint** addresses the matter through informal action, a record should be made setting out:

- a. Details of the complainant
- b. Details of the person complained about
- c. A summary of the matter
- d. A summary of actions taken in response
- e. Details of agreed actions (if any)

If informal action does not successfully resolve the matter, the record may be made available to an investigation process as provided for under this Policy.

2.7 Part 2 – Formal action

This Part sets out the process for formal action in response to a complaint regarding the behaviour of **elected members** and addresses the manner in which a complaint will be:

- a. Received
- b. Assessed
- c. Investigated
- d. Resolved
- e. Recorded

A complaint made under the Behavioural Management Policy must:

- a. be received in writing. Subject to an alternative resolution of the Council, a complaint should be marked with “Confidential **Elected member** Complaint” and forwarded to:
 - (via email) governance@cttg.sa.gov.au
 - (hard copy) 571 Montague Road, Modbury SA 5092
- b. Provide the:
 - name of the **elected member** who has allegedly breached the **behavioural requirements**;
 - name and contact details of the complainant;
 - name and contact details of the person submitting the complaint (if different to the complainant) and;
 - name and contact details of any witnesses or other persons able to provide information about the complaint.
- c. Be specific (including identifying the **behavioural requirements** the complainant alleges have been breached)
- d. Provide as much supporting evidence as possible to assist an investigation, including the grounds and circumstances of the complaint (e.g. where, when, impact of the behaviour, actions taken to try to resolve the issue, relevant records or documents)
- e. Identify the outcome being sought
- f. Be lodged within two (2) months of the alleged conduct occurring on the basis that it is important to address alleged breaches of **behavioural requirements** in a timely manner (with discretion provided to the **person responsible for managing the complaint** to allow a longer time limit to apply in particular cases. This will be assessed on a case-by-case basis at the discretion of the person responsible for managing the complaint).

2.7.1 Receipt of a Complaint

This step is an administrative process undertaken by the **CEO** or delegate:

- a. receipt
- b. initial acknowledgement
- c. record keeping; and
- d. allocation of the matter to the person responsible for managing the complaint.

The **CEO** or delegate does not undertake an assessment of the merits of the complaint. Receipt of the complaint will be acknowledged within 2 business days or as soon as reasonably practicable and a copy of this Policy will be provided to the person making the complaint.

The complaint should be directed to the **person responsible for managing the complaint** in accordance with this Policy.

A complainant may withdraw their complaint at any stage.

2.7.2 Initial complaint assessment

An initial complaint assessment is not an investigation or adjudication of a complaint and no findings as to the merits of the complaint will be made at this stage.

Step 1 – Initial assessment

The **person responsible for managing the complaint** will undertake an assessment of it to determine whether the content of the complaint relates to the **behavioural requirements** and whether the conduct occurred in the context of the **elected member** carrying out their official functions and duties.

In undertaking the assessment, the **person responsible for managing the complaint** will have regard to the following matters:

- a. the person that is making the complaint (or on whose behalf the complaint has been made) has a sufficient interest in the matter
- b. the complaint is **trivial, frivolous** or **vexatious** or not made in good faith
- c. the complaint has been lodged with another authority
- d. the subject matter of the complaint has been or is already being investigated by the Council or another body
- e. it is unnecessary or unjustifiable for the Council to deal with the complaint
- f. the council has dealt with the complaint adequately.

Step 2 – Opportunity to respond to initial assessment

If the **person responsible for managing the complaint** considers the matter warrants further consideration, the person complained about should be advised that a complaint

has been received and is undergoing an initial assessment in accordance with this Policy. They should be provided a summary of the matter, at a sufficient level of detail, to understand the nature of the allegations and enable them to provide a preliminary response. This may be achieved by a discussion between the **person responsible for managing the complaint** and the person complained about, taking into account the principles of this Policy. The person complained about may have a support person present during any discussions.

The person complained about should be given a reasonable opportunity, but no more than ten business days, to provide a response to support the initial assessment. The **person responsible for managing the complaint** may provide a longer period of time for provision of a response at their discretion. The **person responsible for managing the complaint** should have regard to any response provided in determining the action resulting from the initial assessment.

Step 3 - Action from initial assessment

The **person responsible for managing the complaint** will determine what action will result from the initial assessment within 10 business days of receiving the response to support the initial assessment from the person complained about. A matter may proceed to formal consideration under this Policy, unless there are grounds to take one of the following actions pursuant to section 262B(2)(b):

- a. refusing to deal with the complaint (noting Section 270(4a)(a)(i) of the **Act** precludes a review of a decision to refuse to deal with the complaint)
- b. determining to take no further action
- c. referring to an alternative resolution mechanism or to propose training for relevant parties (e.g. facilitated discussion, provision of training, mediation, arbitration, conflict resolution, etc.)
- d. referring the matter to another body or agency (e.g. the Ombudsman SA or the Behavioural Standards Panel)

The outcome of the initial assessment will be advised to the complainant and person complained about in writing within 5 business days of determining the action from initial assessment, as far as is permitted by law.

Refusing to deal with the complaint/Determining to take no further action

Where the **person responsible for managing the complaint** makes a decision not to proceed with formal consideration of the matter the following steps should be taken (in accordance with Section 262D of the **Act**):

- a. the complainant must be provided written reasons explaining the decision
- b. the person complained about should be provided with a brief summary of the complaint and the reasons for not proceeding.
- c. A record of these steps and the decision not to proceed should be made.

Whilst a matter may not proceed, the **person responsible for managing the complaint** may discuss the issues informally with the parties and identify strategies to build skills, facilitate positive relationship development and reduce the likelihood of repeat occurrences.

Decision to refer to alternative resolution mechanism

The **person responsible for managing the complaint** may form the view that the optimal way to deal with the complaint is to implement an alternative resolution mechanism such as facilitated discussion, mediation, arbitration, conflict resolution or training.

The **person responsible for managing the complaint** should discuss the use of a proposed alternative resolution mechanism with the complainant and the person complained about to determine whether there is support for this approach.

If so, the **person responsible for managing the complaint** should request the **CEO** take steps to facilitate access to appropriate internal or external support (not being for the purposes of obtaining legal advice) for parties to the complaint. The **CEO** will not refuse any reasonable request for resources made in accordance with this Policy.

The complainant and the person complained about should be provided written confirmation of the alternative resolution mechanism to be used for the purposes of resolving the complaint.

Decision to refer to another body or agency

Where the **person responsible for managing the complaint** makes a decision to refer the matter to another body or agency the person will follow any direction from that body or agency regarding what information is to be provided to the complainant and the **elected member** complained about regarding the referral.

Decision to proceed to formal consideration

Where the **person responsible for managing the complaint** makes a decision to proceed to formal consideration the following steps should be taken:

- a. the person complained about should be provided with a copy of this Policy, contact details of the **person responsible for managing the complaint** and a summary document setting out:
 - the specific provision(s) of the **behavioural requirements** alleged to have been breached; and
 - the circumstances where this breach is alleged to have occurred.

In circumstances where the complainant has not requested their identity be kept confidential, a copy of the complaint may be provided in full.

- b. the complainant should be advised of the decision to proceed and the contact details of the person responsible for managing the complaint.

2.7.3 Formal consideration

Where a decision to formally consider the complaint has been made, the **person responsible for managing the complaint** will determine how to proceed:

- a. The **person responsible for managing the complaint** may determine that they are the appropriate person to formally consider the complaint; or
- b. The **person responsible for managing the complaint** may determine to engage a third party to formally consider the complaint, for example:
 - an investigator who will report to the person responsible for managing the complaint; or
 - an external service provider with skills relevant to the matter who will report to the person responsible for managing the complaint.

If the **person responsible for managing the complaint** determines a third party should be engaged, they will request the **CEO** to facilitate engagement of an appropriate service provider. The **CEO** will not refuse any reasonable request for resources made in accordance with this Policy.

The **person responsible for managing the complaint** will advise both the complainant and the person complained about that they are able to have a support person accompany them during discussions relating to the complaint.

It is the expectation of Council that both the complainant and the person complained about will cooperate with any such process to consider the complaint and, if requested, participate in meetings in a timely manner.

Failure by the **elected member** complained about to comply with this requirement may be taken into account when considering the actions to be taken under section 262B(2)(e) of the **Act** and may constitute grounds for referral to the Behavioural Standards Panel for **misbehaviour**.

Further consideration by the **person responsible for managing the complaint** (or the third party engaged), may (at the discretion of that person) involve:

- a. explore the complaint with the complainant and the person who is the subject of the complaint
- b. speaking with other persons who have been nominated by the parties to have observed the behaviour
- c. speaking directly with witnesses to the conduct complained about

- d. requesting the provision of information or documents relevant to the investigation, which may include access to audio or video recordings of meetings.

During the formal consideration of a matter appropriate records should be kept by the person responsible for managing the complaint.

2.7.4 Report

The **person responsible for managing the complaint** (or the third party engaged) should ensure a draft report is prepared summarising the matter and setting out their findings, conclusions and recommendations. The report should set out:

- a. Allegations made in the complaint
- b. Summary of evidence to which the investigation had regard
- c. Findings
- d. Conclusions
- e. Recommendations

A draft report will generally include a recommended action for the parties to consider and/or participate in such as, but not limited to the imposition of sanctions as per the **Act**:

- a. Discussions with parties to the complaint to seek agreement
- b. Formal mediation if not already undertaken
- c. Conciliation
- d. Arbitration
- e. Education and further training

A copy of the draft report should be provided to the parties to the complaint who should be given a reasonable opportunity, but no more than ten business days, to make submissions in relation to the draft report. The **person responsible for managing the complaint** (or the third party engaged) may provide a longer period of time for lodgement of submissions to the draft report at their discretion. The **person responsible for managing the complaint** (or the third party engaged) should have regard to any submissions made in preparing a final report.

Outcome – No breach found

Where the finding is that no breach of the **behavioural requirements** has occurred a final report (incorporating all of the matters referred in respect of a draft report above) should be prepared by the **person responsible for managing the complaint** (or third party engaged) and provided to the complainant and the person complained about.

The complaint will remain confidential in accordance with the requirements of this Policy, except at the request of the person complained about. If such a request is made, a copy of the final report will be tabled at the next practicable Council meeting (noting that the

complainants identity may need to be redacted). If no such request is received, no further action will be taken.

Outcome – agreed actions (breach found)

Where the finding is that a breach of the **behavioural requirements** has occurred and the complainant and the person complained about agree to a path for resolution, that agreement will be documented including matters such as:

- a. actions to be undertaken
- b. responsibility for completing actions
- c. timeframes for completion of actions
- d. what will occur if there is a repeat of the behaviours complained about
- e. monitoring arrangements for completion of actions
- f. what will occur if the actions aren't completed
- g. confirmation that the matter is considered resolved

Where the conduct complained about is not raised by the person directly affected by the conduct it will usually be appropriate to discuss the proposed resolution with that person prior to finalising agreement. This is intended to apply in a circumstance where the 'victim' is not the complainant to provide them a reasonable opportunity to have input into the resolution.

The agreement reached will be made in writing, including a commitment by parties to the complaint to abide by the agreement (which may be by electronic means). A copy of the agreement will be retained by each party and a copy held in Council records.

The complaint will remain confidential in accordance with the requirements of this Policy except at the request of the person complained about. If such a request is made, a copy of the final report will be tabled at the next practicable Council meeting (noting that the complainant's identity may need to be redacted). The matter must be reported in the Council's Annual Report which must contain the information required by the regulations (refer schedule 4(1)(d) of the **Act**).

Outcome – no agreed action (breach found)

Where the finding is that a breach of the **behavioural requirements** has occurred and the parties to the complaint have failed to reach agreement as to the resolution of the matter a final report (incorporating all of the matters referred to in respect of a draft report above) should be presented to Council for determination. The **person responsible for managing the complaint** should request the **CEO** to include the final report in the Council Agenda as soon as practicable.

2.7.5 Actions of Council

Where the parties are not able to agree on an approach to resolve the matter, a report will be provided to Council where Council will make a preliminary determination on finding(s) and advise of the proposed action(s) to be taken. The **elected member** complained about will be given the opportunity to comment on the preliminary finding(s) and proposed action(s) as follows by:

- a. providing a written response at the same meeting the final report is presented to, at the request of the **elected member** complained about; or
- b. provide a written response within 5 business days
- c. provide a written response in such other period as determined by the Council

At at the next available Council meeting, the Council will consider the response from the **elected member** complained about and will make a final determination on the finding(s) and proposed action(s). The decision to publish any written response from the **elected member** complained about in the Council meeting agenda, will be at the discretion of the **person responsible for managing the complaint**, taking into account potential legal implications in publishing the response. This may involve the written response being partially or fully redacted or omitted from the Council Agenda, noting Elected members will be provided the unredacted response.

The Council may, by resolution determine the actions to be taken which may include, pursuant to section 262C:

- a. taking no further action
- b. passing a censure motion in respect of the member;
- c. requiring the member to issue a public apology (in a manner determined by the Council)
- d. requiring the member to undertake a specified course of training or instruction;
- e. removal or suspension from one or more offices held in the member's capacity as a member of the Council or by virtue of being a member of the Council – but not the office of Member of the Council;

If Council determines to take action, a report on the matter must be considered at a meeting open to the public (refer section 262C(2) of the **Act**).

Where Council determines to take no further action, the complainant will be advised of this along with reasons (pursuant to section 262D of the **Act**), which may include:

- a. the ground that, having regard to all the circumstances of the case, it is unnecessary or unjustifiable for the council to deal with or continue to deal with the complaint;
- b. the ground that the subject matter of the complaint has been or is already being investigated, whether by the council or another person or body; or
- c. the ground that the council has dealt with the complaint adequately.

In making a determination under section 262C(1) Council should be reasonably prescriptive about the manner and time periods in which the action must be completed. Section 262E defines a failure to comply with a requirement of the council under 262C(1) as '**misbehaviour**' which may result in a referral to the Behavioural Standards Panel.

The complainant will be advised of the outcome of any report to Council. The matter must be reported in the Council's Annual Report which must contain the information required by the regulations (refer Schedule 4(1)(d) of the **Act**).

2.8 Behavioural Standards Panel

The Behavioural Standards Panel is an independent statutory authority (established pursuant to sections 262F to 262P of the **Act**), consisting of three members and has further powers to impose sanctions on **elected members** who breach the **behavioural requirements**.

In accordance with section 262Q of the **Act** a complaint alleging **misbehaviour**, **repeated misbehaviour** or **serious misbehaviour** may be made to the Panel by certain persons as set out below. The Panel's jurisdiction arises in the circumstances set out below:

Legislative definition (262E of the Act)	Plain language explanation
<p>misbehaviour means—</p> <ul style="list-style-type: none"> (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; 	<p>Misbehaviour means:</p> <ul style="list-style-type: none"> (a) an elected member fails to take the action required by council; or (b) an elected member fails to comply with this policy; or (c) an elected member fails to comply with an agreement reached pursuant to this policy
<p>repeated misbehaviour means a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2;</p>	<p>A second or subsequent breach of the behavioural requirements</p>
<p>serious misbehaviour means a failure by a member of a council to comply with section 75G.</p>	<p>A breach of health and safety duties (including sexual harassment) as set out in section 75G of the Act</p>

A complaint alleging ***misbehaviour, repeated misbehaviour*** or ***serious misbehaviour*** by a member of council (refer Section 262Q of the **Act**) may be referred to the Panel by:

- a. A resolution of the council;
- b. The Mayor; or
- c. At least 3 members of the council
- d. Responsible person under 75G – direction not to attend meeting.

At the point of referral, the Behavioural Standards Panel have their own defined process established by legislation (sections 262R to 262X of the **Act**) for:

- Proceedings
- Assessment
- Inquiries
- Dispute resolution
- Action
- Reporting

Behavioural Standards Panel Contact Officer

Council must appoint a person as the contact officer for matters referred to the Behavioural Standards Panel. The contact officer is responsible for the provision of information to and receipt of notice from the Behavioural Standards Panel.

2.9 Responsibilities

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:

- a. Perform the tasks bestowed upon the person responsible for dealing with a complaint pursuant to this Policy
- b. 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.
- c. In consultation with the **CEO**, engage external resources to assist with investigation and resolution of matters.

The **CEO** (or delegate) is responsible under this Policy to:

- a. manage the administrative receipt, acknowledgement, record keeping and allocation of a complaint lodged in accordance with this Policy
- b. facilitate access to external resources to support the resolution of complaints lodged in accordance with this Policy.
- c. The ***Behavioural Standards Panel Contact Officer*** (appointed by the Council) is responsible under this Policy to:
- d. comply with any lawful request of the Panel for information related to a matter under consideration.

- e. Receive and respond to notices relating to matters under consideration by the Panel.

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.

3. STRATEGIC PLAN/POLICY

3.1 Strategic Plan

The following strategic objectives in Council’s Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
Leadership	
<i>Customer service provides a positive experience for people and is based on honesty and transparency</i>	It is important that the complaint handling process for customers is clear and transparent.
<i>Decision making is informed, based on evidence and is consistent</i>	Outcomes are determined by formal consideration, which establishes consistent outcomes that may be achieved for customers and elected members

3.2 Organisation Plan

Nil

4. DEFINITIONS

For the purposes of this policy the following definitions apply:

Act

Refers to the Local Government Act 1999

Behavioural Management Framework

The legislative framework within which all elected members must operate – comprises four components:

- The **Behavioural Standards for Elected members**, determined by the Minister for Local Government, which apply to all elected members in South Australia;
- The mandatory Behavioural Management Policy (this document) relating to the management of behaviour of elected members and adopted pursuant to section 262B of the Local Government Act;

- Optional Behavioural Support Policy (or policies) designed to support appropriate behaviour by elected members and adopted pursuant to section 75F of the Local Government Act.

Behavioural requirements

Refers collectively and individually to the ***Behavioural Standards for Elected members***, the Behavioural Management Policy and any Behavioural Support Policies adopted by the Council.

Behavioural Standards for Elected 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.

Behavioural Standards Panel Contact Officer

The person appointed as the contact officer for matters referred to the Behavioural Standards Panel, which includes:

- General Manager Corporate Services
- Manager Governance & Policy
- Governance Advisor.

CEO

Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully, which includes any General Manager, Manager Governance & Policy and Governance Advisor.

Elected member

Refers to all Council members of the City of Tea Tree Gully, including Councillors and the Mayor.

Frivolous

Includes without limitation, a matter of little weight or importance, or lacking in seriousness.

Misbehaviour

Is defined in section 262E of the Local Government Act 1999 as:

- (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 **elected member** appointed by Council or CEO.

Repeated misbehaviour

Is defined in section 262E of the Local Government Act 1999 as a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2 (Ch 5- Members of council, Pt 4-Member integrity and behaviour, Div 2-Member behaviour)

Serious misbehaviour

Is defined in section 262E of the Local Government Act 1999 as a failure by a member of a council to comply with section 75G (Health and safety duties).

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.

5. LEGISLATIVE FRAMEWORK

[Independent Commission Against Corruption Act 2012](#)

Established to deal with identification, investigation, prevention and minimisation of corruption in public administration (including local government).

[Local Government Act 1999](#)

- Section 62 – establishes general duties of **elected members**.
- Section 75E – establishes the behavioural standards.
- Section 75F – establishes provision for councils to adopt a behavioural support policy, as an optional policy, in addition to the behavioural management policy.
- Section 75G - establishes health and safety duties for **elected members**.
- Section 80B – establishes provisions for an **elected member** to be suspended from office subject to an intervention order
- Section 107 – introduces a new principle of human resource management to protect employees from sexual harassment
- Section 262A, 262C and 262D – establishes the legislative requirements for complaints about **elected member** behavior

- Section 262B – establishes the requirement for a mandatory behavioral management policy to be adopted by councils.
- Sections 262E to 262X – establishes Behavioural Standards Panel requirements
- Section 263A to 268 – details process, outcomes and actions for Ombudsman and SACAT complaints, investigations and proceedings.

[Ombudsman Act 1972](#)

Established to provide for the Ombudsman with the powers, functions and duties to investigate the exercise of the administrative powers of certain agencies and allegations of misconduct or maladministration in public administration (including local government).

[Public Interest Disclosure Act 2018](#)

An Act established to encourage and facilitate disclosures of certain information in the public interest by ensuring that proper procedures are in place for making and dealing with such disclosures and by providing protection for persons making such disclosures; and for other purposes.

5.2 Other references

Council's documents including:

- [Caretaker Policy](#)
- [Fraud and Corruption Policy](#)
- [Elected member Support and Training Policy](#)

This document is based on a model policy developed by the Local Government Association of South Australia.

6. POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio general manager and managed in accordance with Council's scheme of delegations.

Record number	D23/5514
Responsible Manager	Manager Governance & Policy General Manager Corporate Services
Other key internal stakeholders	NA
Last reviewed	27/01/2023
Adoption reference	Council
Resolution number	65
Previous review dates	NA
Legal requirement	This Policy has been prepared and adopted pursuant to section 262B of the Local Government Act 1999 (the Act).
Due date next review	2027