

1.72 Management of Complaints of Alleged Breaches of Behaviour Policy

Policy Owner	Chief Executive Officer
Responsible Officer	Manager Governance & Risk
Date of Approval	01/07/2025 (OCM 01/07/2025 AR168)
Amended / Revised	11/07/2025

Objective

This Policy outlines the City of Albany's approach to managing complaints related to alleged breaches of the behaviour requirements in Part 3 of the City's Code of Conduct for Council Members, Committee Members, and Candidates (the Code).

Scope

This Policy applies to complaints about alleged breaches of the behaviour requirements outlined in Part 3 of the Code. Breaches of Part 2 (General Principles) cannot result in formal complaints or penalties under the Local Government Act 1995 but form the moral and ethical framework underpinning enforceable standards in Part 3.

Complaints excluded from this Policy include:

- Personal grievances or disagreements.
- Dissatisfaction with lawful decisions or performance of roles.
- Minor breaches under section 5.105(1) of the Local Government Act 1995.
- Serious breaches under section 5.114 of the Local Government Act 1995.
- Allegations of corruption.

Policy Statement

This Policy ensures complaints of alleged behavioural breaches are managed transparently, consistently, and with oversight from the Council. The City will follow the requirements outlined in the Code for submitting, responding to, dismissing and withdrawing complaints.

Complaint Submission and Response

- 1. Submission:** Complaints must be submitted to the Complaints Officer using the prescribed content. Anonymous complaints will not be accepted.
- 2. Acknowledgment:** Within 14 of receiving a complaint, the Complaints Officer will:
 - Acknowledge receipt to the Complainant.
 - Outline the complaint process and confidentiality measures.
 - Provide the Respondent with a copy of the complaint and the Complainant's name.
 - Include the City's response form for completion. *(Noting that the prescribed content can be provided instead of the form.)*
- 3. Response:** The Respondent must submit the completed response within 14 days. Multiple complaints related to the same behaviour may be processed concurrently.
- 4. Mediation** (if requested): If both parties agree to mediation, the Complaints Officer will:
 - Appoint an impartial Mediator.
 - Suspend complaint timelines until mediation is finalised or discontinued.
 - Require withdrawal of complaints resulting from successful mediation within 5 days, or the complaint assessment continues.

Assessment of the Complaint

In accordance with Schedule 1, Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021*.

- 1. Initial Assessment:** Within 14 days of receiving a response from the respondent, the Complaints Officer must either:
 - Dismiss the complaint under Clause 13.1 of the Code, or
 - Refer the complaint to an independent Assessor for review.
- 2. Notification to Council:** If the complaint is referred to an Assessor, the Complaints Officer must:
 - Inform the Council that a valid complaint has been received and referred; and
 - Provide the Assessor's findings to the Council for consideration at the next practicable Ordinary Council Meeting.
- 3. Respondent Notification:** Before the matter is presented to Council, the respondent will be provided with:
 - A copy of the independent Assessor's report; and
 - Any proposed action plan (if applicable).

Prescribed Actions for Behavioural Breaches

In accordance with Schedule 1, Division 3 – Behaviour, of the *Local Government (Model Code of Conduct) Regulations 2021*:

- 1. Breaches of a Minor Behavioural Nature:** Example: Inappropriate language, minor disruptions.
Actions:
 - Issuance of a formal warning.
 - Requirement to attend a behavioural training session.
- 2. Breaches of a Moderate Behavioural Nature:** Example: repeated minor breaches, disrespectful behaviour.
Actions:
 - Mandatory participation in conflict resolution training.
 - Issuance of a formal apology to affected parties.
- 3. Breaches of a Serious Behaviour Nature:** Example: harassment, discrimination, misuse of position.
Actions:
 - Mandatory participation in specified training programs.
 - Issuance of a formal apology to affected parties.

Council Findings

1. The Complaints Officer will present a confidential report to the Council, including:
 - The complaint and supporting attachments.
 - The Respondent's response and supporting documentation.
 - The Assessor's report and recommendation on whether a breach occurred and proposed actions for Council consideration.
2. The Council may determine:
 - To dismiss the complaint.
 - That no breach occurred.
 - That a breach occurred and requires an action plan.
3. In considering an action plan, the Council will evaluate:
 - The nature and seriousness of the breach.
 - Submissions from the Respondent.
 - Whether the breach was intentional or careless.
 - Any previous breaches by the Respondent.
 - Relevant mitigating or contributing factors.
4. Following the Council's determination, a summary of the complaint and finding (only if it is determined that a breach has occurred) will be published on the City's website.

Action Plans

If a breach is determined, an Action Plan may be imposed by Council or, if Council considers appropriate, developed with the respondent.

The plan must specify:

- Identified behaviours of concern.
- Actions required to address these behaviours.
- Responsible parties for implementation.
- Timeframes for completion.

Confidentiality of Complaints

- All complaint-related documentation, responses, and deliberations will remain confidential.
- Council findings and reasons will be provided under confidential cover.
- Following the Council's determination, a summary of the complaint and finding (only if it is determined that a breach has occurred) will be published on the City's website.

Compliance with Action Plans

- The Complaints Officer will monitor compliance with action plans.
- Non-compliance will be deemed a minor breach under section 5.105(1) of the *Local Government Act 1995* and Clause 23 of the Code.
- The Council is to be informed of non-compliance.

Legislative and Strategic Context

This Policy operates within the framework of:

- Local Government Act 1995
- The Local Government (Model Code of Conduct) Regulations 2021
- City of Albany Code of Conduct for Council Members, Committee Members, and Candidates

Review Position and Date

This Policy will be reviewed annually by the Chief Executive Officer.

Associated Documents

- Local Government Act 1995
- Local Government (Model Code of Conduct) Regulations 2021
- City of Albany Code of Conduct for Council Members, Committee Members, and Candidates
- Code of Conduct Alleged Breach Form

Definitions

- **Committee:** A Committee of Council, including Ordinary & Special Council Meetings, established under section 5.8 of the *Local Government Act 1995*.
- **Complaints Officer:** An authorised person to receive complaints and withdrawals.
- **Assessor:** An impartial third party appointed to assess complaints.
- **Mediator:** An impartial third party appointed to facilitate mediation.