

1.14 Code of Conduct for Council Members, Committee Members and Candidates

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1. Objective

1.1 The purpose of this policy is to:

- (a) adopt and give effect to the Code of Conduct for Council Members, Committee Members and Candidates as required by the Local Government Act 1995 and the Local Government (Model Code of Conduct) Regulations 2021 (as amended); and
- (b) set clear expectations of conduct and behaviour; and
- (c) provide a compliant mechanism for dealing with behavioural breach complaints (Division 3), including mandatory referral pathways, monitoring arrangements, and the performance/authorisation requirements that apply from 1 January 2026.

2. Scope

2.1 The Code applies to:

- (a) Council Members;
- (b) Committee Members; and
- (c) Candidates.

2.2 It is the responsibility of each Council Member, Committee Member and Candidate to:

- (a) become familiar with this Code and comply with it at all times; and
- (b) comply with relevant provisions of the Local Government Act 1995 and associated regulations.

3. Policy Statements (Governance and Compliance)

3.1 Adoption, amendment and publication

- (a) Council must adopt this Code and any amendments by an absolute majority.
- (b) The CEO must publish an up-to-date version of the adopted Code on the City's official website.

3.2 Consistency with the Model Code

- (a) This Code incorporates the Model Code of Conduct set out in Schedule 1 of the Local Government (Model Code of Conduct) Regulations 2021 (as amended and current from 1 January 2026).
- (b) Council may include additional behavioural requirements only to the extent permitted by the Act and only where not inconsistent with the Model Code.

3.3 Behavioural breach complaints (Division 3)

- (a) Behavioural breach complaints must be made:
 - (i) in writing on the approved form; and
 - (ii) within 1 month after the occurrence of the alleged breach; and
 - (iii) to an authorised receiving officer appointed under clause 11(3).
- (b) Complaints must be dealt with under clauses 12 to 15 unless:
 - (i) they must be referred to the Local Government Inspector (Inspector) under clause 11(5) and regulation 3A; and the Inspector deals with the complaint under Part 8A; or
 - (ii) the Inspector refers the complaint back to the City under the Local Government (Local Government Inspector) Regulations 2025 regulation 6.

3.4 Mandatory Inspector referral – repeat behavioural breaches

Where regulation 3A applies (repeat behavioural breaches on or after 1 January 2026), the authorised receiving officer must refer the complaint to the Inspector under section 5.105(3) of the Act.

3.5 Determination of behavioural breach complaints – who performs the function

- (a) The City's functions under clauses 12 and 13 must be performed by Council.
- (b) Council may, by resolution carried with an absolute majority:
 - (i) authorise a committee of Council comprising Council Members only; or
 - (ii) authorise an eligible external person,

to perform a function for and on behalf of the City in accordance with clause 14B.

3.6 Monitor provisions

- (a) The Inspector may appoint a monitor to assist the City to deal with matters raised by a complaint.
- (b) If directed by the Inspector to defer dealing with a complaint until the monitor reports, the City must comply.

3.7 Confidentiality (statutory)

- (a) All parties must comply with statutory confidentiality requirements applying to complaints and related information.
- (b) Disclosure or use of protected complaint information may only occur where authorised by law.

3.8 Rules of conduct (Division 4) – conduct breach pathway

A contravention of a rule of conduct in Division 4 constitutes a conduct breach and is dealt with under Part 8A of the Act (not under the Division 3 behavioural process).

4. Roles and Responsibilities

4.1 Council

- (a) Adopts and amends the Code.
- (b) Performs the functions under clauses 12 and 13 (unless authorised under clause 14B).
- (c) Approves the behavioural breach complaint form for clause 11(2)(a).
- (d) Appoints authorised receiving officers for clause 11(3).

4.2 Chief Executive Officer (CEO)

- (a) Publishes the up-to-date Code on the City's official website.
- (b) Ensures administrative systems support compliance with the Code, including any Inspector directions.

4.3 Authorised Receiving Officer(s) (appointed under clause 11(3)) of the Code.

- (a) Receive behavioural breach complaints and withdrawals.
- (b) Ensure mandatory referrals to the Inspector occur when required.

5. Review

5.1 This policy should be reviewed:

- (a) prior to a general local government election; or
- (b) earlier if relevant legislation or regulations are amended.

6. Associated Documents / Annexes

Council Policy Positions:

- Attendance at Events and Functions Policy (1.04)
- Alleged Breaches of Behaviour Complaints Management Policy (1.72)
- Complaints Management Framework (LGA Part 8A Policy & Procedures)

Attachments:

- Attachment A – Gift Framework: Disclosure Flow Chart
- Attachment B – Gift Framework: Interests Relating to Gifts Flow Chart
- Attachment C – Gift Framework: Approval to Participate (Interest Relating to a Gift) Flow Chart
- Attachment D – Complaint About Alleged Behaviour Breach Form (cl. 11(2)(a))
- Attachment E – Guidance Notes: Behavioural Breach Complaints

CITY OF ALBANY – CODE OF CONDUCT FOR COUNCIL MEMBERS, COMMITTEE MEMBERS AND CANDIDATES

(Local Government (Model Code of Conduct) Regulations 2021 – Schedule 1, as amended)

Division 1 — Preliminary provisions

1. Citation

This is the City of Albany’s Code of Conduct for Council Members, Committee Members and Candidates.

2. Terms used

(1) In this code —

Act means the Local Government Act 1995;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 — General principles

3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. Personal integrity

(1) A council member, committee member or candidate should —

(a) act with reasonable care and diligence; and

(b) act with honesty and integrity; and

(c) act lawfully; and

(d) identify and appropriately manage any conflict of interest; and

(e) avoid damage to the reputation of the local government.

(2) A council member or committee member should —

(a) act in accordance with the trust placed in council members and committee members; and

(b) participate in decision-making in an honest, fair, impartial and timely manner; and

(c) actively seek out and engage in training and development opportunities to improve the performance of their role; and

(d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

5. Relationship with others

(1) A council member, committee member or candidate should —

- (a) treat others with respect, courtesy and fairness; and
- (b) respect and value diversity in the community.

(2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

6. Accountability

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.

Division 3 — Behaviour

7. Overview of Division

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

8. Personal integrity

(1) A council member, committee member or candidate —

- (a) must ensure that their use of social media and other forms of communication complies with this code; and
- (b) must only publish material that is factually correct.

(2) A council member or committee member —

- (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
- (b) must comply with all policies, procedures and resolutions of the local government.

9. Relationship with others

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.

10. Council or committee meetings

When attending a council or committee meeting, a council member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

11. Complaint about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.
- (4) A complaint must be dealt with under clauses 12 to 15 unless —
 - (a) the complaint is referred to the Inspector in accordance with subclause (5); and
 - (b) the Inspector refers the complaint to be dealt with under Part 8A Division 5 of the Act.
- (5) If the Local Government (Model Code of Conduct) Regulations 2021 regulation 3A applies to a complaint, a person authorised under subclause (3) must refer the complaint to the Inspector under section 5.105(3) of the Act.
- (6) A complaint must also be dealt with under clauses 12 to 15 if the Inspector refers the complaint to the local government under the Local Government (Local Government Inspector) Regulations 2025, regulation 6.

12. Dealing with a complaint

(1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach, the subject of the complaint, has occurred.

Note: See also clause 14A in relation to the appointment of a monitor.

- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
 - (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

(5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.

(6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —

- (a) engage in mediation;
- (b) undertake counselling;
- (c) undertake training;
- (d) take other action the local government considers appropriate.

(7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —

- (a) its finding and the reasons for its finding; and
- (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

13. Dismissal of complaint

(1) The local government must dismiss a complaint if it is satisfied that —

- (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
- (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.

(2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

14. Withdrawal of complaint

(1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.

(2) The withdrawal of a complaint must be —

- (a) in writing; and
- (b) given to a person authorised under clause 11(3).

14A. Appointment of monitor

(1) The Inspector may appoint a monitor for the local government to assist the local government to deal with matters raised by a complaint.

(2) If the Inspector appoints a monitor —

- (a) the Inspector may direct the local government to defer further dealing with the complaint until the monitor reports to the Inspector on the outcome of the monitoring assignment; and
- (b) the local government must comply with the direction.

14B. Performance of local government's functions under cl. 12 and 13

(1) The local government's functions under clauses 12 and 13 must be performed by the council.

(2) Despite subclause (1), the council may, by resolution carried with an absolute majority of the council, authorise a committee of the council comprising council members only to perform a function for and on behalf of the local government.

(3) Despite subclause (1), the council may, by resolution carried with an absolute majority of the council, authorise a person who is none of the following to perform a function for and on behalf of the local government —

- (a) a member of the council of any local government;
- (b) a member of the governing body of any regional subsidiary;
- (c) an employee of any local government or regional subsidiary;
- (d) an employee of WALGA or the Local Government Professionals Australia (WA);
- (e) a member of the governing body of, or an employee of, a body corporate the activities of which are, wholly or partly, advocating or otherwise acting for, or on behalf of, 1 or more of the following —
 - (i) local governments;
 - (ii) members of councils;
 - (iii) employees of local governments.

(4) A resolution made under subclause (3) must include the following —

- (a) a statement to the effect that the council is satisfied that the person being authorised is suitably qualified and experienced to perform the function;
- (b) an explanation as to why the council is satisfied as referred to in paragraph (a);
- (c) a statement to the effect that the council is satisfied that the person being authorised is impartial and has no close association with any member of the council or any employee of the local government.

(5) Nothing in this clause prevents an employee of the local government from providing, in relation to the performance of a function, any advice or other assistance to the council, a committee authorised under subclause (2) or a person authorised under subclause (3).

15. Other provisions about complaints

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.
- (3) Clauses 14A and 14B do not apply in relation to a complaint made before 1 January 2026.

Division 4 — Rules of conduct

Notes for this Division

1. Under section 8A.3(1) of the Act, a council member commits a conduct breach if the council member contravenes a rule of conduct, including a contravention when the council member was a candidate.
2. A conduct breach is dealt with under Part 8A Division 5 of the Act.

16. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

17. Misuse of local government resources

(1) In this clause —

electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the Electoral Act 1907 or the Commonwealth Electoral Act 1918;

resources of a local government includes —

- (a) local government property; and
- (b) services provided, or paid for, by a local government.

(2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

18. Securing personal advantage or disadvantaging others

(1) A council member must not make improper use of their office —

- (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
- (b) to cause detriment to the local government or any other person.

(2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or The Criminal Code section 83.

19. Prohibition against involvement in administration

(1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.

(2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

20. Relationship with local government employees

(1) In this clause —

local government employee means a person —

- (a) employed by a local government under section 5.36(1) of the Act; or
- (b) engaged by a local government under a contract for services.

(2) A council member or candidate must not —

- (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
- (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
- (c) act in an abusive or threatening manner towards a local government employee.

(3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

(4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —

- (a) make a statement that a local government employee is incompetent or dishonest; or
- (b) use an offensive or objectionable expression when referring to a local government employee.

(5) Subclause (4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.

21. Disclosure of information

(1) In this clause:

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;

document includes a part of a document;

non-confidential document means a document that is not a confidential document.

(2) A council member must not disclose information that the council member —

(a) derived from a confidential document; or

(b) acquired at a closed meeting other than information derived from a non-confidential document.

(3) Subclause (2) does not prevent a council member from disclosing information —

(a) at a closed meeting; or

(b) to the extent specified by the council and subject to such other conditions as the council determines; or

(c) that is already in the public domain; or

(d) to an officer of the Department; or

(e) to the Minister; or

(f) to a legal practitioner for the purpose of obtaining legal advice; or

(g) if the disclosure is required or permitted by law.

22. Disclosure of interests

(1) In this clause:

interest —

(a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and

(b) includes an interest arising from kinship, friendship or membership of an association.

(2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —

(a) in a written notice given to the CEO before the meeting; or

(b) at the meeting immediately before the matter is discussed.

(3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.

(4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —

(a) that they had an interest in the matter; or

(b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.

(5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then:

(a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and

(b) at the meeting, the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.

(6) Subclause (7) applies in relation to an interest if:

(a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or

(b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.

(7) The nature of the interest must be recorded in the minutes of the meeting.

23. Compliance with plan requirement

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.

Attachments:

- ATTACHMENT A – Gift Framework: Disclosure Flow Chart
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