

Behavioural Management Procedure

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| Procedure Author | General Manager Corporate Services |
| Date of next review | November 2026 |

1. Purpose

The Behavioural Management Procedure outlines the process and steps to be followed by the Council for the purpose of addressing and processing any complaints alleging a breach of the Behavioural Standards for Council Members (the Standards).

This Procedure applies to all complaints or reports alleging a Council Member has breached the Standards.

2. References and Supporting Documentation

This Procedure should be read in conjunction with the Behavioural Management Policy and the Behavioural Standards for Council Members.

Related documents include:

- Behavioural Standards Panel Practice Direction 1: Lodgement of a complaint
- Behavioural Standards Panel Practice Direction 2: Assessment of complaint
- Behavioural Standards Panel Practice Direction 3: Inquiry process
- Behavioural Standards Panel Practice Direction 4: Alternative dispute resolution
- Behavioural Standards Panel Practice Direction 5: Action and report on inquiry

3. Application

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| Council Members | Comply with the Behavioural Standards for Council Members. |
| Chief Executive Officer | Ensure the Behavioural Management Procedure is implemented and is subject to ongoing review as experience in the application of the Procedure reveals improvements or enhancements that can be made. |
| Mayor, Deputy Mayor and Chief Executive Officer | Participate in the Behavioural Standards Governance Group (BSGG) who receive complaints about Council Member behaviour, assess and investigate complaints. |
| Manager Governance | Assumes the role of Contact Officer. Responsible for the provision of information to and receipt of notice from the Behavioural Standards Panel (BSP). |

4. Initial Process

4.1 Primary Dispute Resolution

- 4.1.1 Council encourages informal resolution of concerns regarding behaviour alleged to be contrary to the behavioural requirements. In the first instance, a person should consider raising the matter directly with the Council Member.
- 4.1.2 Where there is a concern between Council Members, Council encourages the parties to raise their concerns directly prior to making a complaint.

4.2 Making a complaint

- 4.2.1 Any person may make a complaint alleging a Council Member has breached the Behavioural Standards. A complaint alleging a breach of the Standards must:
- Be in writing;
 - Identify by name the Council Member who is the subject of the complaint;
 - Identify the person making the complaint by Name, Address, Contact Number(s) and/or Email Address;
 - State whether the matter has been raised directly with the Council Member who is the subject of the complaint;
 - State the circumstances giving rise to the complaint and clearly identify which part(s) of the Behavioural Standards has allegedly been breached; and;
 - Be specific and provide as much supporting evidence as possible to substantiate the complaint and to assist with an assessment and/or investigation.

A complaint may be accepted notwithstanding its non-compliance with clause 4.2.1 if the BSGG considers it is appropriate to do so in the circumstances of the case.

It is essential that no one is excluded from making a complaint because of any difficulties they may have in doing so. If necessary, access to interpreters, aids or advocates can be arranged to ensure that everyone is treated equitably.

- 4.2.2 A complaint should be marked "Council Member complaint" and can be forwarded to:
- Via email – behaviouralmanagement@playford.sa.gov.au
 - Hard copy – Playford Operations Centre, 12 Bishopstone Road, Davoren Park SA 5113
- 4.2.3 The Manager Governance will acknowledge receipt of the complaint, register it to Council's corporate records management system and forward it to the BSGG for their action, assessment and investigation as required.

This step is merely an administrative process for receipt of the complaint and no assessment is made at this stage about the merits of the complaint.

- 4.2.4 A person making a complaint may withdraw their complaint at any stage of the process.

4.3 Initial assessment of a complaint

- 4.3.1 The Manager Governance will organise a meeting of the BSGG and will provide the information of the complaint to the members of the BSGG prior to this meeting. This meeting will be held within an appropriate time period from when the complaint is initially made.
- 4.3.2 The BSGG is a small group established to assess, investigate and refer complaints regarding alleged breaches of the Standards to the BSP as required. The BSGG may also assist to bring about the resolution of complaints where agreement can be reached between the parties.
- 4.3.3 The BSGG comprises of three members:

- Mayor
- Deputy Mayor
- Chief Executive Officer

Where the Mayor and/or Deputy Mayor are the complainant, the subject of the complaint or documented as a third party to the complaint, the Presiding Member of the Corporate Governance Committee will be substituted to the BSGG.

- 4.3.4 The BSGG will undertake an assessment of the complaint and may refuse to deal with a complaint or take no further action if one or more of the following grounds have been met:
- the person making the complaint (or on whose behalf the complaint has been made) does not have sufficient personal interest in the matter
 - the complaint is trivial, frivolous or vexatious or not made in good faith
 - it is unnecessary or unjustifiable for Council to deal with or continue to deal with the complaint
 - the subject matter of the complaint has been or is already being investigated by the Council or another person or body
 - the matter of the complaint has already been dealt with by the Council adequately.
- 4.3.5 The BSGG will, by majority, determine what action will result from the initial assessment which, pursuant to Section 262B(2)(b), may include:
- a decision to refuse to deal with the complaint; or
 - a decision to take no further action on a complaint; or
 - proceeding with a complaint.
- 4.3.6 The outcome of the initial assessment will be advised in writing to the complainant and the Council Member who is the subject of the complaint.
- 4.3.7 The identity of a complainant will be disclosed to the Council Member subject of the complaint.

5. Part 1 – Informal resolution

5.1 Complaint proceeds

5.1.1 Following an initial assessment that a complaint is to proceed, the BSGG will provide the Council Member to which the complaint relates, a copy of;

- the complaint including specific provision(s) of the Standards alleged to have been breached and the circumstances where the breach has occurred, and
- the Behavioural Management Policy and Procedure

5.1.2 The complainant will also be advised of the decision to proceed in writing.

5.1.3 The BSGG will attempt to bring about a resolution of a complaint by

- a. Encouraging the complainant to raise the matter directly with the Council Member; and/or
- b. A process of consultation with both parties as determined by the BSGG.

Both parties may bring a support person to any meetings held as part of the consultation process.

5.1.4 The following consultation processes may be considered by the BSGG:

- Mayor meets with both parties
- Independent mediator/conciliator is engaged
- BSGG or BSGG delegate meets with both parties

If the complaint is able to be resolved at this stage, the BSGG will provide in writing a summary of the outcome to both the complainant and the Council Member who is the subject of the complaint, including any agreement reached by the parties.

If a complaint is not able to be resolved through informal resolution processes, it will progress to formal consideration.

6. Part 2 – Formal consideration

6.1 Alternative resolution mechanism

6.1.1 The BSGG may determine that an appropriate way to deal with the complaint is to implement an alternative resolution mechanism such as a facilitated discussion or, mediation.

6.1.2 The use of a proposed alternative resolution mechanism should be discussed with the Council Member and the person making the complaint.

6.2 Investigation

6.2.1 The BSGG may determine to undertake the role of investigator or engage an external provider to undertake an investigation. Where a Council Member is the complainant, an external provider will be engaged to undertake an investigation.

- 6.2.2 Both parties will be advised that they are able to have a support person accompany them to any meetings where discussions relating to the complaint may be held.
- 6.2.3 The investigator will prepare a draft report summarising the matter and proposing action(s) to conclude the complaint. Possible actions and solutions may include but are not limited to:
- Discussion with the parties to reach agreement
 - Formal mediation/conciliation or arbitration
 - Education and further training
- 6.2.4 The investigator will provide a copy of the draft report to the parties of the complaint, who will be afforded the opportunity to make submissions in relation to the draft report. Any submissions must be made within 10 business days or such longer time as the investigator considers appropriate.
- 6.2.5 The investigator will have regard to any submissions made when finalising a copy of the report.
- 6.2.6 A copy of the final report will be provided within 10 business days to both parties. The investigator will seek feedback as to whether the path for resolution is agreed to by both the person making the complaint and the Council Member.

7. Outcomes

7.1 Agreed actions

- 7.1.1 Where the person making the complaint and the related Council Member agree to the proposed solution(s) in the final report, the agreement will be documented and signed by both parties.
- 7.1.2 A copy of the agreement will be provided to each party and a copy maintained in Council's corporate records management system.

7.2 No agreed actions

- 7.2.1 Where the parties fail to reach an agreement regarding the resolution to the matter as specified in the final report, the final report will be presented to Council as soon as practicable for consideration.
- 7.2.2 Council will determine the actions to be taken, at a meeting open to the public, which may include:
- take no further action
 - pass a censure motion in respect of the Council Member
 - require the Council Member to issue a public apology
 - require the Council Member to undertake specific training or education
 - 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, such as a position on a Council Committee or appointment as a Council representative to an external body or authority, but not the office of a Member of the Council.

- 7.2.3 Where Council determines to take no further action, the person who made the complaint will be advised along with the reasons which may include those outlined in clause 4.3.4.

8. Behavioural Standards Panel

- 8.1.1 The Behavioural Standards Panel (the Panel) is an independent statutory authority consisting of three members with powers to impose sanctions on council members who are found to have committed misbehaviour, repeated misbehaviour or serious misbehaviour. Council is required to pay for the costs of the Panel's deliberations.
- 8.1.2 A matter may be referred to the Panel if the complaint alleges misbehaviour, repeated misbehaviour or serious misbehaviour as defined by the Act (summarised below):

Misbehaviour means:

- a. a council member fails to take the action required by council; or
- b. a council member fails to comply with this policy; or
- c. a council member fails to comply with an agreement reached pursuant to the Behavioural Management Policy or this Procedure.

Repeated misbehaviour: A second or subsequent breach of the behavioural requirements.

Serious misbehaviour: A breach of health and safety duties (including sexual harassment) as set out in Section 75G of the Act

- 8.1.3 A complaint alleging misbehaviour will proceed to the BSGG prior to being considered by Council.
- 8.1.4 A complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour by a member of a council may be referred to the Panel by—
- a resolution of the council; or
 - the principal member of the council; or
 - at least 3 members of the council; or
 - a responsible person in accordance with Section 75G(5).
- 8.1.5 Council must appoint a person as a Contact Officer for matters referred to the Panel.
- 8.1.6 Following referral to the Panel, the Panel will maintain carriage of the matter in accordance with legislative requirements and the Practice Directions.

9. Feedback

Your feedback on this policy is invited and can be directed to the Manager Governance via email to governance@playford.sa.gov.au or by calling the Customer Contact Team on 8256 0333

Administration use only

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| 1 | 24 October 2023 | Council | New Procedure |
