

# Code of Conduct for Council Members Complaints Handling Procedure

## 1. Purpose


The Code of Conduct for Council Members has been published by the Minister for State/Local Government Relations for the purposes of Section 63(1) of the Local Government Act 1999.

Council Members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council Members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

It is intended that each Council will adopt a process for the handling, where required, alleged breaches of the Code. This process will be reviewed within 12 months of a general Local Government election.

Part 2 of the Code deals with behavioural matters. Paragraph 2.21 of Part 2 of the Code states that a complaint may be investigated and resolved in any manner which Council deems appropriate. This can include, but is not limited to referral to a mediator or conciliator, the Local Government Governance Panel, a regional governance panel, or an independent investigator.

The Code of Conduct for Council Members Complaint Handling Procedure outlines the procedure to be observed by the Council for the purpose of addressing and processing any complaints alleging a breach of the Code. Any person who believes a breach of the Code may have occurred is encouraged to bring details to the attention of the Council in accordance with this

	Procedure No.:	Not Applicable	Version No.:	2.0
	ECM Document Set No.:	2768675	Initial Adoption:	25/02/2014
	Authorised by:	Council	Current Version:	28/07/2015
	Document Maintained by:	Service Coordinator, Governance Corporate Consulting	Next Review Date:	February 2019

Procedure. Complaints relating to behavioural matters or Misconduct will be investigated using the procedure detailed in **Annexure A** of this document.

Alternatively complainants may lodge a complaint with the Office for Public Integrity (OPI), <http://www.icac.sa.gov.au/>

## 2. Approval and Change History

Version	Approval Date	Approval by	Change
1.0	25/02/2014	Ordinary Council	New Procedure – Legislative Requirement Scheduled Review
2.0	28/07/2015	Ordinary Council Resolution #2224	Addition of Point 4.4 under Part Part 2 – Referral to the Local Government Governance Panel or Independent Investigator as per <b>Annexure A</b>  Addition of point 5.8 under Part 3-Mandatory Code (Misconduct) of <b>Annexure A</b>

## 3. Scope

This Procedure applies to all Council Members.

The Council has determined that the Code is to also apply to the appointed Independent Members of the City of Playford's Section 41 Committees with the exception of CDAP Members, due to CDAP having its own Complaint Handling Procedure.

## 4. Definitions

**CEO** is the Chief Executive Officer.

**Council Member** means the Principal Member or a councillor appointed or elected by the electors of a particular ward, as a representative of the ward in the City of Playford.

**Council Function** means any Event or Training, endorsed, sanctioned, managed or organised by Council.

**Local Government Governance Panel** means the independent Panel established by the Local Government Association (LGA) to assist Councils to deal with complaints made in respect of the Council's Council Member Code of Conduct or the Minister's code of conduct for CDAP Members.

**Independent Investigator** means an Independent Investigator appointed to assist Councils to deal with complaints made in respect of the Council's Council Member Code of Conduct or the Minister's code of conduct for CDAP Members.

**Independent Members** are Members on a committee or panel who are not elected but have been appointed by the Council to undertake a similar role as Councillors on Council's Section 41 Committees or the Council Development Assessment Panel. They are external appointees.

**Mayor** is the person appointed or elected as the Principle Member of the Council to represent the local government area as a whole.

**Public Officer** includes—

- a) a person appointed to public office by the Governor; or
- b) a judicial officer; or
- c) a member of Parliament; or
- d) a person employed in the Public Service of the State; or
- e) a member of the police force; or
- f) any other officer or employee of the Crown; or
- g) a member of a State instrumentality or of the governing body of a State instrumentality or an officer or employee of a State instrumentality; or
- h) a member of a local government body or an officer or employee of a local government body; or
- i) a person who personally performs work for the Crown, a State instrumentality or a local government body as a contractor or as an employee of a contractor or otherwise directly or indirectly on behalf of a contractor, and public office has a corresponding meaning;

**Staff** includes Staff, contractors, volunteers and all others who perform work on behalf of council.

## 5. Procedure

The published Code is detailed in **Annexure C** to this procedure.

## 6. Supporting Documentation

The following documents support this procedure:

- Local Government Act 1999

Further information regarding any aspect of the Code of Conduct, this Procedure, Council policies or contact details for Council Members can be obtained by contacting Council's Customer Care Centre on **(08) 8256 0333**. Specific queries can be directed to Council's Governance Team.

ADOPTED 28 JULY 2015 - RESOLUTION 2224

## **Procedure for Dealing with Complaints**

### **1. Breaches of the Code of Conduct**

**1.1** The Council is committed to ensuring compliance with the Code of Conduct for Council Members and will investigate and address complaints made relating to the Code. Council has established the following procedures to deal with complaints as they arise.

**1.2** Breaches of the Code of Conduct may relate to behavioural matters (in Part 2 of the Code) or misconduct (in Part 3 of the Code). Criminal or corruption matters, which are subject to separate legislation, do not form part of the Code of Conduct for Council Members but are referred to in the appendix contained within the Code (Annexure C). This procedure covers referral of these types of complaints to other agencies.

### **2. Alleged breach**

**2.1** Where an alleged breach occurs the complainant should report the allegation, in writing, to the Council, addressed to the nominated delegate. The allegation must:

**2.1.1** Be in writing;

**2.1.2** Be clearly marked 'Confidential';

**2.1.3** Identify by name the Council Member who is the subject of the complaint;

**2.1.4** Identify the complainant by Name, Address, Contact Number(s) and/or Email Address;

**2.1.5** States the circumstances giving rise to the complaint and identifies clearly which part(s) of the Code has allegedly been breached; and

**2.1.6** Be specific and provide as much supporting evidence as possible to substantiate the complaint and to assist with an assessment and/or investigation.

- 2.2** If Items 2.1.1 through 2.1.6 are not completed, the nominated delegate must request the complainant provide such. If the complainant refuses or fails to provide such within seven (7) days from the date of request, the complaint may be dismissed.
- 2.3** Anonymous complaints will not be investigated by Council. If such a complaint gives rise to a reasonable suspicion of corruption in public administration and/or serious or systemic misconduct/maladministration it will be reported to the Office for Public Integrity in accordance with the Directions and Guidelines adopted by ICAC.
- 2.4** Consideration will be given to any complainant made under the Whistleblowers Protection Act 1993.
- 2.5** Complainants can, at any time, take the alternative option of lodging the complaint with the OPI, which will direct the complaint in accordance with the Independent Commissioner Against Corruption Act 2012 (ICAC Act).
- 2.6** The nominated delegate will be responsible for receiving and managing the referral of a complaint and will advise the CEO and the Principal Member (or if it relates to the Principal Member, his/her deputy) of receipt of a complaint. The nominated delegate will determine whether the complaint:
- 2.6.1** falls under Part 2 of the Code – Behavioural Code;
  - 2.6.2** falls under Part 3 of the Code – Misconduct; or
  - 2.6.3** is related to Criminal or Corrupt Behaviour
- 2.7** Complaints relating to Part 3 of the Code or relates to criminal or corrupt behaviour must immediately be referred to the appropriate authority.  
(See below)

**2.8** Council maintains jurisdiction where the complaint deals with conduct that falls under Part 2 of the Code. Part 2 deals with conduct that reflects reasonable community expectations of how Council Members should conduct themselves. Robust debate within Council which is conducted in a respectful manner is not a breach of this Part.

**3. Alleged Breach of Part 2-Internal response**

**3.1** Only with the agreement of both the complainant and the Council Member(s) who is the subject of the complaint, shall the nominated delegate seek to resolve the matter by engaging an external provider for mediation and conciliation between the parties. This may be appropriate, for example, where the complainant is also a Council Member.

**3.2** The outcomes from mediation and conciliation will be as follows;

**3.2.1** The complaint is withdrawn.

**3.2.2** The parties agree to an outcome.

**3.2.3** The complaint is upheld.

**3.3** Where the matter is withdrawn or resolved by mediation and conciliation to the satisfaction of the parties, the matter will be closed and no further action taken. The nominated delegate will send written confirmation to both parties confirming that the matter has been withdrawn or resolved. The matter will not be subject to a report to a public meeting of the Council.

**3.4** If mediation or conciliation fails to resolve the complaint, the nominated delegate will either;

**3.4.1** refer the complaint to the Local Government Governance Panel if it falls within their remit; or

**3.4.2** refer the complaint to an independent investigator.

**3.5** The nominated delegate must ensure that the principles of natural justice and procedural fairness are observed (see information regarding 'Natural Justice' in **Annexure B**).

**3.6** All complaints will be dealt with confidentially, until such time, as they are required to be reported to Council in a public meeting in accordance with the Code.

**4. Part 2 – Referral to the Local Government Governance Panel or Independent Investigator**

**4.1** Complaints referred to the Governance Panel or Independent Investigator will specify the ground/s of the complaint, set out the circumstances of the complaint and be accompanied by any other material that is available to support the complaint.

**4.2** The matter will be assessed initially by Governance Panel or Independent Investigator who will determine the process to be followed and the person who will deal with the matter. The matter may be dismissed if it is frivolous, vexatious, misconceived or lacking in substance. Where a complaint progresses to an investigation, a report will be prepared by the Governance Panel or Independent Investigator and will be provided to the Council. The report may recommend to the Council appropriate action in relation to the matter, including the imposition of any of the sanctions available to a Council under clause 2.25 of the Code (see below).

**4.3** A breach of Part 2 of the Code must be the subject of a report to a public meeting of the Council.

**4.4** Reports will not be provided to Council where they are not founded or substantiated.



**4.5** If following investigation by the Governance Panel or Independent Investigator, a breach of Part 2 of the Code is proven, the Council may, by resolution, take any of the following actions:

**4.5.1** Take no action;

**4.5.2** Pass a censure motion in respect of the Council Member;

**4.5.3** Request a public apology, whether written or verbal;

**4.5.4** Request the Council Member to attend training on the specific topic found to have been breached;

**4.5.5** Resolve to remove or suspend the Council Member from a position within the Council (not including the Member's elected position on Council)

**4.5.6** Request the member to repay monies to the Council.

**5. Part 3-Mandatory Code (Misconduct)**

**5.1** Any person may report an alleged breach of Part 3 of the Code to the Council, the Ombudsman or the OPI. Alleged breaches of Part 3 of the Code made to Council or to the OPI may be referred to the Ombudsman for investigation.

**5.2** Under the Code, a Council Member who is of the opinion that a breach of Part 3 of the Code has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the OPI.

**5.3** A failure to report an alleged or suspected breach of Part 3 of the Code is in itself a breach under Part 2 of the Code.

**5.4** A failure of a Council Member to co-operate with the Council's process for handling alleged breaches of Part 2 of the Code may be referred for investigation under Part 3.

**5.5** A failure of a Council Member to comply with a finding of an investigation under Part 2 of the Code, adopted by the Council, may be referred for investigation under Part 3.

- 5.6 Repeated or sustained breaches of Part 2 of the Code by the same Council Member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 5.7 A report from the Ombudsman that finds a Council Member has breached Part 3 of the Code must be the subject of a report to a public meeting of the Council.
- 5.8 Reports will not be provided to Council where they are not founded or substantiated.
- 5.9 The Council must pass a resolution to give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of any such recommendations

**6. Criminal Matters – Appendix to the Code of Conduct**

- 6.1 The matters within the Appendix to the Code are matters for which a criminal penalty attaches. These matters must be reported to the OPI. (See Council's *Fraud and Corruption Prevention Policy* for further information on reporting requirements or the *Directions and Guidelines* issued by the Independent Commissioner Against Corruption).
- 6.2 In compliance with the ICAC Act 2012, referral of such complaints to the OPI will remain confidential.

**Natural Justice**

A Council Member is entitled to natural justice (procedural fairness) when a complaint concerning behaviour contrary to the Code is being investigated. This means:

1. Within five (5) business days of receipt of an allegation, the Council Member who is the subject of the complaint will be advised by the nominated delegate of the complaint and its substance. The Member will also be advised of the manner in which the nominated delegate intends to deal with the complaint.
2. The Council Member will be given the opportunity to respond to the allegations in writing; and or, orally with the right to appear before the Governance Panel or Independent Investigator in person.
3. A Council Member who engages legal or other professional advisors, to assist them in responding to a complaint under the Code may have costs up to \$2,500 met by Council. Further costs may be met by resolution of Council.
4. The Council Member will be notified of the time, the place and the purpose of the interview and will be given adequate time to prepare. If the Council Member believes that insufficient time for preparation has been allowed, a reasonable extension of time will be granted.
5. The Mediator/Conciliator, Governance Panel or Independent Investigator will make available details of all allegations and any documents, which are to be relied upon, to the Council Member as soon as practicable and at least seven (7) days prior to meeting with them. This provision of information will be subject to any laws relating to the release of information.

## **CODE OF CONDUCT FOR COUNCIL MEMBERS**

***Local Government Act 1999: Section 63 (1)***

**NOTICE under Clause 3.10 of the Code of Conduct for Council Members published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999.**

**For the purposes of Clause 3.10 of the Code of Conduct for Council Members adopted for the purposes of Section 63 (1) of the Local Government Act 1999 and published in the *Gazette* on the day on which this Notice is made, the value of \$100 is specified.**

**Dated 18 August 2013.**

**JOHN RAU, Deputy Premier, Minister for Planning**

---

### **Code of Conduct for Council Members**

**Published by the Minister for State/Local Government Relations for the purposes of section 63(1) of the *Local Government Act 1999*.**

**This Code of Conduct is to be observed by all Council Members.**

Council Members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of council Members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

#### **PART 1—PRINCIPLES**

##### **1. Higher principles – Overarching Statement**

*This part does not constitute separate enforceable standards of conduct.*

Council Members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council Members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council Members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council Members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council Members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist Members to meet their responsibilities under the *Local Government Act 1999*.

Council Members will comply with all legislative requirements of their role and abide by this Code of Conduct.

## **PART 2—BEHAVIOURAL CODE**

### **2. Behavioural Code**

In line with 'Part 1—Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council Members that does not meet the reasonable community expectations of the conduct of Council Members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election. Councillors must:

### **General behaviour**

- 2.1 Show commitment and discharge duties conscientiously.
- 2.2 Act in a way that generates community trust and confidence in the Council.
- 2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
- 2.4 Show respect for others if making comments publicly.
- 2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.

### **Responsibilities as a Member of Council**

- 2.6 Comply with all Council policies, codes and resolutions.
- 2.7 Deal with information received in their capacity as Council Members in a responsible manner.
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.

### **Relationship with fellow Council Members**

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council Members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council Members.

### **Relationship with Council staff**

- 2.11 Not bully or harass Council staff.

- 2.12** Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
- 2.13** Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
- 2.14** Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

### **Requirement to report breach of Part 3**

- 2.15** A Council Member who is of the opinion that a breach of Part 3 of this Code (Misconduct) - has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 2.16** A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

### **Complaints**

- 2.17** Any person may make a complaint about a Council Member under the Behavioural Code.
- 2.18** Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.
- 2.19** A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.
- 2.20** A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.

- 2.21** A failure of a Council Member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.
- 2.22** A failure of a Council Member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.
- 2.23** Repeated or sustained breaches of this Part by the same Council Member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 2.24** A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

### **Findings**

- 2.25** If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council Member is found, the Council may, by resolution:
- 2.25.1** Take no action;
  - 2.25.2** Pass a censure motion in respect of the Council Member;
  - 2.25.3** Request a public apology, whether written or verbal;
  - 2.25.4** Request the Council Member to attend training on the specific topic found to have been breached;
  - 2.25.5** Resolve to remove or suspend the Council Member from a position within the Council (not including the Member's elected position on Council)
  - 2.25.6** Request the Member to repay monies to the Council.

## **PART 3—MISCONDUCT**

### **3. Misconduct**

Failure by a Councillor to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the *Local Government Act 1999*. Any breach of these provisions will be investigated under that legislation.



Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under section 263 of the *Local Government Act 1999*, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a councillor has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

### **Member duties**

Council Members must:

- 3.1** Act honestly at all times in the performance and discharge of their official functions and duties;
- 3.2** Perform and discharge their official functions and duties with reasonable care and diligence at all times;
- 3.3** Not release or divulge information that the Council has ordered be kept confidential, or that the Councillor should reasonably know is information that is confidential, including information that is considered by Council in confidence;
- 3.4** Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;

- 3.5** Not attempt to improperly direct a Member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;
- 3.6** Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

### **Gifts and benefits**

- 3.7** Council Members must not:
  - 3.7.1** Seek gifts or benefits of any kind;
  - 3.7.2** Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
  - 3.7.3** Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the council.
- 3.8** Notwithstanding code 3.7, Council Members may accept campaign donations as provided for in the *Local Government (Elections) Act 1999*.
- 3.9** Notwithstanding code 3.7.3, Council Members may accept hospitality provided in the context of performing their duties, including:
  - 3.9.1** Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
    - 3.9.1.1** Council work related events such as training, education sessions workshops and conferences;
    - 3.9.1.2** Council functions or events;
    - 3.9.1.3** Social functions organised by groups such as Council committees and community organisations;
  - 3.9.2** Invitations to, and attendance at, local social, cultural or sporting events.

**3.10** Where Council Members receive a gift or benefit of more than a value published in the Government Gazette by the Minister from time to time, details of each gift must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

### **Register of Interests**

**3.11** Council Members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

### **Campaign donation returns**

**3.12** Council Members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

### **Conflict of interest**

**3.13** Council Members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the *Local Government Act 1999*

### **Misuse of Council resources**

**3.14** Council Members using Council resources must do so effectively and prudently.

**3.15** Council Members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.

**3.16** Council Members must not use public funds or resources in a manner that is irregular or unauthorised.

## **Repeated or sustained breaches of Part 2**

- 3.17** At the discretion of the Council to which the Member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.
- 3.18** A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

## **APPENDIX—CRIMINAL MATTERS**

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council Members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

### ***Breaches of the Local Government Act 1999***

#### **Member duties**

A Member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a Member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (section 62(3)).

A Member of a Council must not, whether within or outside the State, make improper use of his or her position as a Member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (section 62(4)).

### **Provision of false information**

A Member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the *Local Government Act 1999*, that is to the knowledge of the Member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (section 69).

### **Restrictions on publication of information from Register of Interests**

A Council Member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (section 71).

### **Breaches of other Acts**

Acting in his or her capacity as a Contact Officer, a Council Member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by section 5 of the *Independent Commissioner Against Corruption Act 2012*, including:

An offence against Part 7 Division 4 (Offences relating to Contact Officers) of the *Criminal Law*

*Consolidation Act 1935*, which includes the following offences:

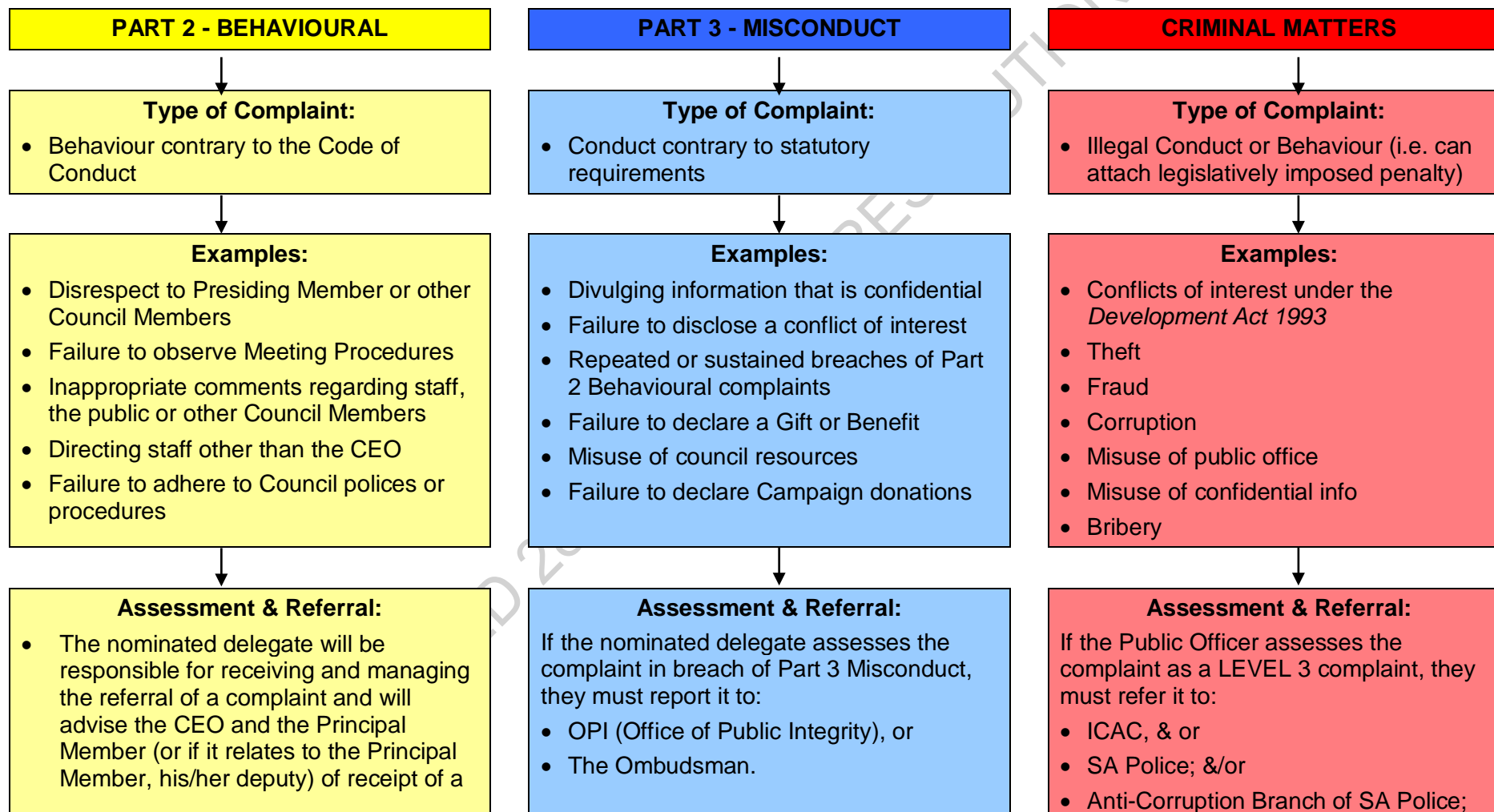
- bribery or corruption of Contact Officers;
- threats or reprisals against Contact Officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*, committed by a Contact Officer while acting in his or her capacity as a Contact Officer, or by a former Contact Officer and related to his or her former capacity as a Contact Officer, or by a person before becoming a Contact Officer and related to his or her capacity as a Contact Officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- conspiring with others to effect the commission of the offence.

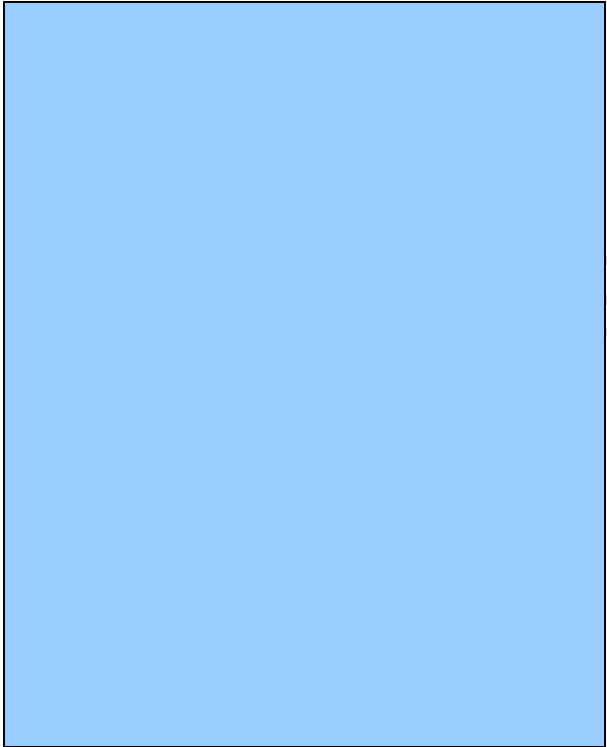
**CODE OF CONDUCT FOR COUNCIL MEMBERS COMPLAINT LEVEL FLOWCHARTS**



complaint. The nominated delegate will determine whether the complaint relates to:

- Falls under Part 2 of the Code – Behavioural Code
- Falls under Part 3 of the Code – Misconduct
- Is related to Criminal or Corrupt Behaviour

- Complaints relating to misconduct or criminal behaviour must be referred to the appropriate authorities immediately.
- Having regard to the seriousness of the allegation and information provided, the nominated delegate may:
  - seek to resolve the matter internally
  - Refer the complaint to the Local Government Governance Panel or Independent Investigator.



&/or

- Minister for State/Local Govt Relations; &/or
- SA Ombudsman

**Consequences:**  
Council may, by resolution

- Take no action;
- Pass a censure motion in respect of the Council Member;
- Request a public apology, whether written or verbal;
- Request the Council Member to attend training on the specific topic found to have been breached;
- Resolve to remove or suspend the

**Consequences:**

- A report from the OPI or the Ombudsman that finds a Council Member has breached Part 3 of the Code of Conduct must be the subject of a report to a public meeting of the Council.

**Consequences:**

- The SA Police, ACB, Minister, or SA Ombudsman, will report the determination as they see fit, and may enforce any determined consequences.



Council Member from a position within the Council (not including the Member's elected position on Council)

- Request the Member to repay monies to the Council.

**Reporting Process:**

- Where the matter is withdrawn or resolved by mediation and conciliation to the satisfaction of the parties, the matter will be closed and no further action taken. The nominated delegate will send written confirmation to both parties confirming that the matter has been withdrawn or resolved. The matter will not be subject to a report to a public meeting of the Council.
- A breach of Part 2 of the Code must be the subject of a report to a public meeting of the Council. The report may recommend appropriate action, including the imposition of any of the sanctions available to a Council under clause 2.25 of the Code of Conduct.

**Reporting Process:**

- A report from the OPI or the Ombudsman that finds a Council Member has breached Part 3 of the Code of Conduct must be the subject of a report to a public meeting of the Council.
- The Council must pass a resolution to give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations

**Reporting Process:**

- Council has no reporting obligations for this part.

ADOPTED 2017