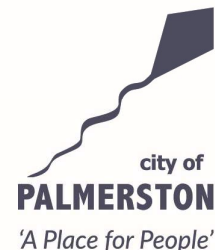


BREACH OF CODE OF CONDUCT BY MEMBER

COUNCIL POLICY



PURPOSE

This policy sets out how Council will manage a complaint received in relation to a breach of the Code of Conduct by a Member.

PRINCIPLES

In managing complaints, Council's guiding principles are to:

- a) Promote behaviour amongst all Members that meets the standards set out in the Code of Conduct.
- b) Take a restorative approach to alleged and substantiated breaches that seeks the resolution to focus on constructive and collaborative outcomes.
- c) Complaints and allegations of misconduct will be managed in a timely, transparent and proportionate manner, and referred to the appropriate decision-maker in accordance with the requirements of *Local Government Act 2019* (NT) (the Act).
- d) Recognise the leadership role of the Mayor and the responsibility of all Members to work together pursuant to their corporate responsibility.

DEFINITIONS

For the purposes of this policy, the following definitions apply:

TERM	DEFINITION
CEO	Chief Executive Officer of City of Palmerston.
Code of Conduct	Schedule 1A of the <i>Local Government (General) Regulations 2021</i> (NT).
Code of Conduct Panel	Means a panel established under by the secretariat in accordance with section 132K of the <i>Local Government Act 2019</i> (NT).
Complaint	Means a complaint made regarding a breach of the provisions of the Code of Conduct made under schedule 1A of the <i>Local Government (General) Regulations 2021</i> (NT).
Complainant	Means the person who lodges a Code of Conduct complaint against an Member (this person can be an Member or a member of the public).
Conflict of Interest	Means if a person has a personnel or financial interest in a matter, either actual or perceived.

TERM	DEFINITION
Council	Means the Members representing the City of Palmerston.
Member	Means members of Council, an audit committee or a council committee
Misconduct	Means conduct by a member that breaches the code of conduct.
Gross Misconduct	Means conduct by a member that breaches the code of conduct and consists of any of the following: <ol style="list-style-type: none"> 1. corruption 2. a criminal offence; 3. repeated serious misconduct 4. behaviour demonstrating the member's unfitness for office.
Independent Assessor	Means a member of the pool of persons appointed under section 121 of the <i>Local Government Act 2019</i> (NT).
Respondent	Means the Member who is alleged to have breached the Code of Conduct.
Secretariat	Means the secretariat mentioned in section 126(1) of the <i>Local Government Act 2019</i> (NT).

POLICY STATEMENT

1. Promoting appropriate behaviour

- 1.1. Council recognises that maintaining high standards of conduct is fundamental to effective local government and public trust.
- 1.2. Council will actively promote compliance with the Code of Conduct through leadership, training, awareness and ongoing support and will encourage behaviours that demonstrate integrity, respect, transparency, accountability and good governance.
- 1.3. All persons subject to the Code of Conduct share responsibility for creating and maintaining a safe, respectful and professional environment in which differing views can be expressed and considered appropriately.

2. Confidentiality

- 2.1. Council recognises that maintaining appropriate confidentiality is essential to ensuring the integrity, fairness and effectiveness of the Code of Conduct complaints process.
- 2.2. All complaints, investigations, evidence, reports, deliberations and determinations relating to an alleged breach of the Code of Conduct must be treated as confidential unless disclosure is:
 - (a) Required by law;
 - (b) necessary to obtain legal, governance or investigative advice;
 - (c) necessary to afford procedural fairness to a complainant or respondent; or

- (d) authorised by resolution of Council or the Chief Executive Officer in accordance with legislative requirements.
- 2.3. Persons involved in the complaint process, including complainants, respondents, witnesses, Members, Council Committee Members, Council Officers and third-party investigators, must not disclose confidential information obtained through the complaint process except as permitted under this policy or by law.
- 2.4. Council will take reasonable steps to protect the identity of complainants, respondents and witnesses where appropriate, noting that complete anonymity may not always be possible where procedural fairness requires disclosure of allegations or supporting evidence.
- 2.5. Unauthorised disclosure of confidential information relating to a complaint may itself constitute misconduct and may be referred for further investigation under the applicable code of conduct and *Information Act 2002* (NT).

3. Conflict of Interest

- 3.1. Any person involved in receiving, assessing, investigating, advising on or determining a Code of Conduct complaint must disclose any actual, perceived or potential conflict of interest as soon as it becomes known.
- 3.2. The disclosure must be made in writing on the Conflict of Interest Declaration Form.
- 3.3. A conflict of interest may arise where a person:
 - (a) Is the complainant or respondent;
 - (b) has a personal, professional, financial or family relationship with the complainant or respondent;
 - (c) has previously been involved in the matter giving rise to the complaint;
 - (d) has publicly expressed views that may reasonably call into question their impartiality; or
 - (e) could otherwise be perceived by a reasonable person as lacking independence in the complaint process.
- 3.4. Where an actual, perceived or potential conflict of interest is identified, the person must immediately withdraw from further involvement in the complaint process unless Council determines that the conflict can be appropriately managed.
- 3.5. All disclosures of conflicts of interest and any management actions taken must be documented and retained with the complaint record.

4. Making a complaint

- 4.1. Any person may make a complaint alleging that an Member has behaved in a way that constitutes a breach of the Code of Conduct.
- 4.2. A complaint must be made within six months after the alleged breach in line with s132C of the Act.
- 4.3. Where a Complaint is made more than six months after the alleged breach, the CEO will give the Complainant written notice that the complaint cannot be accepted.
- 4.4. A complaint must be made by completing the Code of Conduct Complaint Form in full and providing the completed forms to the CEO.
- 4.5. Within seven days of receiving the complaint, the CEO will provide written notice to the Complainant that:
 - (a) Confirms receipt of the complaint;



- (b) explains the application of confidentiality and conflict of interest;
 - (c) provides a copy of this policy;
 - (d) if necessary seeks clarification or further information.
- 4.6. Within seven days after acceptance of the complaint, the CEO will provide written notice to the Respondent that:
- (a) Advises that complaint has been made in accordance with the Code of Conduct and this policy;
 - (b) includes a copy of the complaint documents;
 - (c) outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
 - (d) provides a copy of this policy;
 - (e) provides the Respondent with twenty-one calendar days to provide a response to the complaint allegations to the CEO, Secretariat or Panel; and
 - (f) if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

5. Complaint assessment and determination pathways

Review by Council

- 5.1. A complaint may be dealt with by Council where the complaint:
- (a) Concerns a single Member or Committee Member;
 - (b) does not involve the Principal Member or Deputy Principal Member;
 - (c) does not allege serious misconduct or gross misconduct; and
 - (d) is otherwise suitable for determination by Council under the Act.
- 5.2. Upon receiving a complaint, Council may:
- (a) Determine whether it has jurisdiction;
 - (b) assess the seriousness of the allegations;
 - (c) seek further information;
 - (d) attempt alternative dispute resolution;
 - (e) undertake further investigation; or
 - (f) refer the complaint to the Secretariat who will appoint an Independent Assessor or other appropriate body.
- 5.3. If Council determines that a complaint is frivolous, vexatious, trivial or otherwise lacking substance, Council may refer the matter to the Secretariat who will then appoint an Independent Assessor in accordance with the Act.
- 5.4. Following consideration of the complaint, Council may:
- (a) Dismiss the complaint; or
 - (b) determine that misconduct has occurred and impose one or more actions available under section 132G of the Act.

Review by Secretariat

- 5.5. A complaint must be referred to the Secretariat where:
- (a) The complaint involves multiple members;
 - (b) the complaint involves the Principal Member or Deputy Principal Member;

- (c) serious misconduct or gross misconduct is alleged; or
 - (d) the Act otherwise requires referral to the Secretariat.
- 5.6. The Secretariat will appoint an Independent Assessor to investigate the complaint.
- 5.7. The Independent Assessor may:
- (a) Obtain information and documents;
 - (b) interview relevant persons;
 - (c) conduct inquiries as considered appropriate; and
 - (d) make findings on the balance of probabilities.
- 5.8. Following investigation, the Independent Assessor may:
- (a) Dismiss the complaint;
 - (b) impose or recommend actions available under section 132J of the Act;
 - (c) refer the matter to a Panel;
 - (d) refer the matter to ICAC or Police; or
 - (e) take any other action authorised by the Act.

Review by Code of Conduct Panel

- 5.9. A complaint may be referred to a Panel by the Secretariat or Independent Assessor in accordance with the Act.
- 5.10. The Panel may conduct further investigations and must conduct a hearing before making a determination.
- 5.11. The Panel is not bound by the rules of evidence and must determine complaints on the balance of probabilities.
- 5.12. Following consideration of the matter, the Panel may:
- (a) dismiss the complaint;
 - (b) determine that misconduct has occurred; and
 - (c) impose any action available under section 132N of the Act.

6. Procedural fairness

- 6.1. Council, the Secretariat, an Independent Assessor and the Panel must ensure that complaints are managed in accordance with the principles of procedural fairness and natural justice.
- 6.2. Procedural fairness includes:
- (a) Informing the respondent of the allegations made against them;
 - (b) providing the respondent with access to relevant information relied upon in making a determination, subject to any lawful confidentiality requirements;
 - (c) providing the respondent with a reasonable opportunity to respond to the allegations and any adverse information;
 - (d) ensuring that any person involved in assessing, investigating or determining a complaint is free from actual, potential or perceived conflicts of interest; and
 - (e) making decisions impartially and based on the available evidence.

7. Standard of proof

- 7.1. All complaints must be assessed and determined on the balance of probabilities.
- 7.2. In determining whether a breach of the Code of Conduct has occurred, the decision-maker must be satisfied that it is more likely than not that the alleged conduct occurred.
- 7.3. The Council, Secretariat, Independent Assessor and the Panel are not bound by the rules of evidence and may inform themselves in any manner considered appropriate, subject to the requirements of the Act and procedural fairness.

8. Right of reply

- 8.1. Before any determination is made that may adversely affect a respondent, the respondent must be provided with a reasonable opportunity to respond to the allegations.
- 8.2. The respondent may provide a written response using the prescribed Right of Reply Form and may submit any supporting documents or evidence they wish to be considered.
- 8.3. A response must generally be provided within twenty-one calendar days of receiving notice of the complaint unless a longer period is approved by the relevant decision-maker.
- 8.4. Failure to provide a response within the specified timeframe does not prevent the complaint from being assessed or determined.
- 8.5. Any response received from the respondent must be considered before a determination is made.

9. Written reasons and timeliness

- 9.1. Complaints must be dealt with as expeditiously as reasonably practicable having regard to the nature and complexity of the matter.
- 9.2. All determinations, decisions and outcomes made under this policy must be communicated in writing and include:
 - (a) The decision made;
 - (b) the reasons for the decision;
 - (c) any findings of fact relied upon;
 - (d) any actions, sanctions or recommendations imposed; and
 - (e) any available review rights.

10. Review, Non-Compliance and Ministerial Action

Request a review

- 10.1. A complainant or respondent may request a review by a Panel on procedural fairness grounds within fourteen days after receiving notice of the decision.
- 10.2. The Panel may:
 - (a) Affirm the decision;
 - (b) dismiss the review request;
 - (c) require the matter to be reconsidered in accordance with the Panel's directions; or
 - (d) substitute its own decision or sanction.
- 10.3. The Panel may temporarily suspend the operation of the decision while the review is being considered.

Non-compliance with determinations

- 10.4. Where a member fails to comply with a determination made under the Act, the Independent Assessor or Secretariat may refer the matter to a Panel.
- 10.5. Following consideration of the referral, the Panel may:
 - (a) Direct compliance;
 - (b) vary or impose additional sanctions;
 - (c) impose a monetary penalty; or
 - (d) refer significant or repeated non-compliance to the Minister of Local Government.

Ministerial Action

- 10.6. Where a Panel recommends Ministerial action due to gross misconduct or significant non-compliance, the Minister may exercise powers available under the Act, including:
 - (a) Suspension of a member;
 - (b) dismissal of a member; and
 - (c) disqualification from holding office for a period permitted by the Act.
- 10.7. The Minister must publish notice of any suspension, dismissal or disqualification.

11. Notice of Decision

- 11.1. As soon as practicable after a complaint has been determined, the relevant decision-maker must provide written notice of the decision to the complainant and the respondent.
- 11.2. A decision notice must include:
 - (a) The name of the decision-maker;
 - (b) the date of the decision;
 - (c) a summary of the complaint allegations;
 - (d) the findings made in relation to each allegation;
 - (e) whether a breach of the Code of Conduct was established;
 - (f) the reasons for the decision, including the material facts and information relied upon;
 - (g) any action, sanction, recommendation or direction imposed under the Act or this policy;
 - (h) any timeframe for compliance with a direction or sanction;
 - (i) details of any available review rights, including the timeframe for seeking a review; and
 - (j) any other information required by the Act.
- 11.3. The complainant and respondent are entitled to be informed of the outcome of the complaint, subject to any confidentiality, privacy or legislative restrictions.
- 11.4. Where disclosure of information is restricted by law, the decision notice may be limited to information necessary to communicate the outcome of the complaint.

12. Withdrawing a complaint

- 12.1. A Complainant may withdraw their complaint at any time before a determination or decision has been made in relation to the complaint.

- 12.2. A Complainant may withdraw a complaint by advising the CEO or the Secretariat in writing that they wish to do so.
- 12.3. After receiving a written withdrawal of the complaint, the CEO or Secretariat will take the necessary steps to terminate the process commenced under this policy.

13. Fees

- 13.1. Where a complaint under the Code of Conduct is referred for investigation, mediation, review, hearing or determination, Council may pay any applicable fees and associated costs in the first instance to facilitate the timely progression of the matter.
- 13.2. Council may recover all or part of those costs from the Member who is the subject of the complaint.
- 13.3. Council may recover costs through any lawful means available, including invoicing the Member, deducting amounts from allowances or entitlements where permitted by law, or commencing debt recovery proceedings.

ASSOCIATED DOCUMENTS

- Ministerial Guideline – Code of Conduct
- Department of Housing, Local Government and Community Development Breach of Code of Conduct Forms

REFERENCES AND RELATED LEGISLATION

- *Local Government Act 2019* (NT).
- *Local Government (General Regulations) 2019* (NT).
- *Information Act 2002* (NT).

POLICY DETAILS

OWNER	Chief Executive Officer	RESPONSIBLE OFFICER	General Manager Finance & Governance
APPROVAL DATE	7 July 2026	NEXT REVIEW DUE	As required by legislation
RECORDS NUMBER	466084	COUNCIL DECISION	11/0471

