

Policy Number:	ADM28
Policy Type:	Administration
Policy Name:	Council Member, Committee Member and Candidate Code of Conduct Complaint Handling Policy
Policy Owner:	Chief Executive Officer
Date of Approval	24 September 2026
Council Resolution #	240926.4

POLICY STATEMENT

The Shire of Nannup is committed to addressing behavioural complaints under Division 3 of the Council Member, Committee Member and Candidate Code of Conduct (Complaint/s) (the Code) in an effective, transparent and fair manner.

OBJECTIVE AND PURPOSE

This Policy establishes the process by which the Shire of Nannup Council deals with Behavioural Breach Complaints.

The mechanism for dealing with Complaints is established under clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and is subject to section 5.105 of the *Local Government Act 1995*, including any requirement to refer a complaint to the Inspector.

DEFINITIONS

DEFINITIONS: Any definitions listed in the following table apply to this document only.

Term	Means
Act	means the <i>Local Government Act 1995</i> .
Action Plan	means a Plan that may be prepared and implemented under the Code, to address the behaviour of the person to whom the Complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.
Behavioural Breaches	are those connected to the Shire's adopted code of conduct and are focused on: • personal integrity and use of social media; • relationships with others; and • behaviour at council or committee meetings.
Candidate	means a candidate for election as a Council Member.
Code	means the Shire of Nannup Council Member, Committee Member and Candidate Code of Conduct. are those connected to a local government's adopted code of conduct and are focused on: • personal integrity and use of social media

	- relationships with others - behaviour at council or committee meetings.
Committee Member	A person appointed by resolution of Council to a committee established under the <i>Local Government Act 1995</i> .
Complaint	means a complaint submitted under clause 11 of the Code
Complainant	means a person who has submitted a Complaint.
Complaint Form	means the form approved under clause 11(2)(a) of the Code
Complaints Officer	means a person authorised in writing by Council resolution under clause 11(3) of the Code to receive Complaints and withdrawals of Complaints.
Conduct Breaches	Are those that contravene the <i>Local Government (Model Code of Conduct) Regulations 2021</i> and include: - misuse of a local government resource; - securing personal advantage or disadvantaging others; - prohibition against involvement in administration; - relationships with local government employees; or - disclosure of information/interests.
Council	means the Council of the Shire of Nannup.
Council Meeting	means a formal meeting of the Council that is called and convened in accordance with the Act. It does not include informal meetings, such as workshops or briefings.
Council Member	means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.
MCC	<i>Local Government (Model Code of Conduct Regulations 2021</i>
Respondent	means a person who is the subject of a Complaint submitted under clause 11 of the Code.

SCOPE

This Policy applies to:-

- complaints made in accordance with clause 11 of the Code (Behavioural Breaches);
- Council Members, Committee Members, Candidates; and
- any person who submits a Complaint.

Where required under section 5.105(3) of the Act and 3A of the Regulations a complaint must be referred to the Inspector and will not be dealt with under this Policy unless referred back to the local government.

This Policy does not apply to complaints:-

- About conduct, specified and general breach complaints required under the Act to be

- administered by the Local Government Inspector;
- b) made to express dissatisfaction with a council or committee members lawfully made decisions or performance of their role;
- c) about services delivered by the Shire;
- d) against employees of the Shire;
- e) involving allegations of serious misconduct, corruption, fraud; or
- f) about other criminal or corrupt conduct.

IMPLICATIONS

The Shire will incur costs should the Council make a resolution by absolute majority to engage an external third party to determine a Complaint and appropriately provide resource capacity to assist the Complaints Officer to deal with Complaints.

IMPLEMENTATION

1. *Making a Complaint*

- a) Any person may make a Complaint within one month after the alleged breach of the Code occurred.
- b) A Complaint must be made by completing the Division 3 Complaint Form in full and providing the completed forms to the Shire's Complaints Officer. The Complaint Form inclusive of instructions and contact details is available on the Shire's website or by contacting the Complaints Officer.
- c) A Complaint in relation to a Candidate must be made in accordance with the above but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member. No action will be taken until the results of the election are declared by the Returning Officer.

If the respondent is elected, then the complaint will be dealt with in accordance with this Policy. Timeframes that would otherwise commence on the receipt of a Complaint will be taken to commence on the election date.

If the Respondent is not elected, the Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with.

- d) A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint.
- e) A Complainant may withdraw a Complaint by advising the Complaints Officer in writing that they wish to do so. After receiving a written withdrawal of the Complaint, the Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

2. *Complaints Officer*

- a) The Chief Executive Officer (or in their absence or where a conflict of interest exists, the Executive Manager Corporate Services) is authorised as the Complaints Officer.
- b) The Complaints Officer is authorised to receive Complaints.
- c) The Complaints Officer will conduct a preliminary review to confirm that the Complaint has

been properly made and is within jurisdiction and required time frames. If the Complaint is determined not to be properly made or within jurisdiction, the Complaints Officer will provide the Complainant the opportunity to amend.

- d) The Complaints Officer will as the first course of action, offer the parties 'Alternative Dispute Resolution'.
- e) The Complaints Officer is not an advocate for the complainant or the respondent. The Complaints Officer provides procedural information and assistance to both Complainant and Respondent.

3. *Function and Responsibilities of the Complaints Officer*

- a) The Complaints Officer is to undertake the following –
 - i) Acknowledge receipt of the Complaint in writing to the Complainant, outlining the process to be followed and possible outcomes;
 - ii) Advise the Respondent in writing (attaching all relevant documents) of the Complaint and the process to assess the Complaint and facilitate the Response (to be received within 14 days). An extension of time may be sought but may not exceed 20 days.
 - iii) Provide both parties with a copy of this policy highlighting the confidentiality provisions that apply;
 - iv) prepare a confidential report to Council presenting all relevant documents –
 - the Complaint;
 - the Response; and
 - any other relevant information.

4. *Alternative Dispute Resolution*

- a) The Shire recognises that Alternative Dispute Resolution may support both parties to reach a mutually satisfactory outcome that resolves the issues giving rise to the Complaint. Alternative Dispute Resolution requires the consent of both parties to the Complaint and may not be appropriate in all circumstances.
- b) If both parties agree to participate in Alternative Dispute Resolution, the Complaints Officer will pause the formal process.
- c) The Mediator may be the Complaints Officer or other such person as determined by the Complaints Officer.
- d) The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the Complaint. For example, an offer by a Respondent to issue a voluntary apology in response to a Complaint, even in the absence of a request from the Complainant, qualifies for consideration as Alternative Dispute Resolution.
- e) If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time.
- f) If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that

results in the withdrawal of the Complaint, the Complaints Officer will resume the formal process required under this Policy.

5. Assessment of Complaint

- a) Council is required to make a finding on the balance of probabilities¹.
- b) The Council will make their determination regarding the occurrence of a breach/breaches of the Code in consideration only of the evidence and information provided by the Complainant in the completed Complaint Form and the submission (if received) by the Respondent.
- c) Section 5.105(5) of the Act prohibits the Complainant and the Respondent from presiding at any part of a council meeting relating to the complaint or participating in or being present during any discussion or decision-making procedure of Council relating to the complaint.
- d) The Council's 'finding' must determine either –
 - i) That the Complaint be dismissed if the Council is satisfied that the behaviour to which the complaint relates occurred at a council or committee meeting and either the behaviour was dealt with by the person presiding at the meeting, or the person responsible for the behaviour has taken remedial action in accordance with the Shire's Standing Orders Local Law;
 - ii) that no breach of the Code has occurred;
 - iii) that a breach of the Code has occurred and that no further action should be taken; or
 - iv) that a breach of the Code has occurred and 1 or more of the following is to be adopted as an Action Plan:-
 - engage in mediation
 - undertake counselling;
 - undertake training;
 - take other action Council considers appropriate.
- (e) Council, through the Complaints Officer, is to consult with the Respondent regarding the implementation of the Action Plan and must give the parties written notice of the 'Finding' and the reasons.
- (f) The Complaints Officer is to implement the decision.
- (g) Failure to comply with a requirement included in an action plan is a conduct breach under section 8A.3 of the *Local Government Act 1995* and the Code.

6. Action Plan

- a) The Action Plan is a mechanism to encourage positive behaviour and prevent negative behaviour in the future.

¹ The balance of probability threshold is derived pursuant to clause 12(3) of Schedule 1 of the Local Government (Model Code of Conduct) Regulations 2021, which requires that any finding of a breach 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

- b) When resolving an action plan, the Council may consider:
 - i) the Respondent's submission in relation to the Complaint;
 - ii) whether the Respondent has remedied or rectified their conduct;
 - iii) whether the Respondent has breached the Code knowingly or carelessly.
 - iv) whether the Respondent has breached the Code on previous occasions.
- c) Should Counselling be recommended, it is to be undertaken by an appropriately qualified independent person appointed by the Complaints Officer.

The intention of a counselling session is to allow for education around the behaviour which caused the breach, discussion around positive behaviour for the future and to ideally facilitate the opportunity for an informal apology to be made.

- d) The Respondent must engage in counselling in good faith.

7. Procedural Fairness

- a) The principles of procedural fairness will apply when dealing with a Complaint to the extent set out in this Policy.
- b) Procedural fairness is to be provided to the Complainant and the Respondent as follows –
 - i) A Complainant has the opportunity to receive clarification and assistance from the Complaints Officer prior to submitting a Complaint;
 - ii) As soon as reasonably practicable after the receipt of a Complaint, the Complainant will receive acknowledgment that the Complaint has been received and the Respondent will be duly notified of the Complaint;
 - iii) At first instance, both parties will be offered the opportunity to mediate the Complaint.
 - iv) If no mediation is to occur, the Respondent will be provided fourteen days to respond to the Complaint in writing;
 - v) The Respondent can seek reasonable extensions of time to provide their response, upon written confirmation from the Complaints Officer.
 - vi) Both parties will be notified of the outcomes of the Council determination as soon as practicable by the Complaints Officer.
 - vii) If a breach has been found and it has been determined that an Action Plan is required, the Complaints Officer will consult with the Respondent about their availability for counselling and/or training;
 - viii) The Complainant will be notified that the counselling and/or training has been conducted.

8. Register

The Shire will maintain a register of Complaints lodged under the Code.

9. Confidentiality

- a) Subject to disclosure required to process and determine the Complaint, and to the extent disclosure is required by section 8A.36 of the Act, the Complainant, the Respondent and the Complaints Administrator are required to maintain confidentiality in respect of the Complaint and the processes undertaken to determine the Complaint.
- b) The relevant parties will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the determination of their Complaint.

10. Appeal

There is no mechanism to appeal a determination of Council in respect of a Complaint.

AUTHORITIES AND ACCOUNTABILITIES

The Chief Executive Officer (and in their absence or where a conflict of interest exists, the Executive Manager Corporate Services) is authorised as the Complaints Officer.

ROLES AND RESPONSIBILITIES

Complaints Officer

The Complaints Officer is authorised to receive Complaints.

The Complaints Officer is not an advocate for the complainant or the respondent. The Complaints Officer provides procedural information and assistance to both Complainant and Respondent.

Council

Clause 14B(1) of the MCC provides that Council is responsible for carrying out the functions under clauses 12 and 13 of the MCC.

DISPUTE RESOLUTION (if applicable)

All disputes concerning this policy will be referred to the Chief Executive Officer as the Complaints Officer or, in their absence, the Executive Manager Corporate Services.

EVALUATION AND REVIEW

This Policy is to be reviewed every three years to ensure that it meets its objective and provides clear accountability requirements unless legislative amendments or Council require an immediate review.

RELATED DOCUMENTS

Council Member, Committee Member and Candidate Code of Conduct

REFERENCES

- *Local Government Act 1995*
- *Local Government (Model Code of Conduct) Regulations 2021*
- *Local Government (Local Government Inspector) Regulations 2025*

RESPONSIBILITY FOR IMPLEMENTATION

Chief Executive Officer

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1. 260625.7	26 June 2025	26 June 2027	INT25/6C070F63
2. 240926.4	24 September 2026		INT25/6C070F63
3.			