



13.5 POLICY REVIEW: CODE OF CONDUCT FOR ELECTED MEMBERS

Responsible Officer: Des Jennings, General Manager

Report prepared by: Des Jennings, General Manager

RECOMMENDATION

That Council, pursuant to section 28T of the Local Government Act 1993, adopts the Model Code of Conduct for Elected Members as set out in the Local Government (Model Code of Conduct) without variation.

1 PURPOSE OF REPORT

The purpose of this report is for Council to review as per attached its Code of Conduct for Elected Members Policy.

2 INTRODUCTION/BACKGROUND

The *Local Government Model Code of Conduct Amendment Order 2018* came into effect on 26 December 2018.

Under section 28T(1) of the *Local Government Act 1993*, Councils must review the Model Code of conduct within three months after each ordinary election.

As part of the Government's current Code of Conduct Review and subsequent Bill currently before Parliament, the Government has committed to a review of the "model" code and then the development of a standard code of conduct. While 28T(7) is a legislative review the Act does not specify how this should be done.

Given the work that will occur on the code by the Government throughout 2023, the Minister is unlikely to entertain any substantive changes to the model code emerging from a council review.

It is recommended that Council maintain the status quo regarding the Code of Conduct and participate in the Government's review of the "model" code as opportunities arise.

3 STRATEGIC PLAN & INTEGRATED PRIORITY PROJECTS PLAN

3.1 Strategic Plan 2021-2027

The Strategic Plan 2021-2027 provides the guidelines within which Council operates.

Lead: Serve with honesty, integrity, innovation and pride

Leaders with Impact

Strategic outcomes:

- 1.1 Council is connected to the community
- 1.2 Councillors serve with integrity and honesty
- 1.3 Management is efficient, proactive and responsible

3.2 Integrated Priority Projects Plan 2021

This plan has been developed with a coordinated perspective to align with local, regional, state and federal plans. Rather than grouping projects by town or assembling a long list of 'nice to have' projects, this plan takes a Council-wide view of needs and opportunities in relation to the strategic investment drivers in the region. This matter has relevance to:



Not applicable.

4 POLICY IMPLICATIONS

It is a statutory requirement that Council adopt the Model Code of Conduct, and the Code be reviewed within three months after each ordinary election.

5 STATUTORY REQUIREMENTS

Local Government Act 1993

6 FINANCIAL IMPLICATIONS

Not applicable.

7 RISK ISSUES

No risks have been identified as Council is required, pursuant to the Local Government Act, to review its Code of Conduct.

8 CONSULTATION WITH STATE GOVERNMENT

The State Government developed the Model Code of Conduct, and have committed to a review of the “model” code and then the development of a standard code of conduct.

9 COMMUNITY CONSULTATION

Not applicable.

10 OPTIONS FOR COUNCIL TO CONSIDER

There are two options for Council to consider, to adopt the Code of conduct as is, or amend the code.

11 OFFICER’S COMMENTS/CONCLUSION

The Code of Conduct sets out the standards of behaviour expected of the Councillors of the Northern Midlands Council, with respect to all aspects of their role. As leaders in the community, Councillors acknowledge the importance of high standards of behaviour in maintaining good governance. Good governance supports each Councillors primary goal of acting in the best interest of the community. Councillors, therefore, agree to conduct themselves in accordance with the standards of behaviour set out in the Model Code of Conduct.

Section 28T of the Local Government Act 1993 requires Council to review its Code of conduct within three months after an ordinary election.

The recommendation is to adopt the Model Code of Conduct without variation.

12 ATTACHMENTS

1. Code of Conduct for Elected Members [13.5.1 - 8 pages]



NORTHERN MIDLANDS COUNCIL POLICY MANUAL

CODE OF CONDUCT FOR ELECTED MEMBERS

Originated Date:	Adopted 5 June 2006 – Min Ref 187/06 (as Policy 47)
Amended Date/s:	Amended 17 September 2007 – Min. No. 297/07 Amended 17 November 2008 – Min. No. 261/08 Endorsed 18 October 2010 – Min. No. 273/10 Amended 20 August 2012 – Min. No. 209/12 Amended 15 October 2012 – Min. No. 274/12 Amended 22 June 2015 – Min. No. 159/15 Amended 16 May 2016 – Min. No. 126/16 Amended 18 February 2019 – Min. No 037/19 Amended 20 January 2020 – Min. No 009/20
Applicable Legislation:	Part 3, Division 3A - <i>Local Government Act 1993</i>
Objective	This Code of Conduct provides Councillors with guidelines for their conduct in their duty as an elected member.
Administration:	Governance
Review Cycle/Date:	Within 3 months following a Council election. Next review 2022.

1. PURPOSE

This Code of Conduct sets out the standards of behaviour expected of the councillors of the Northern Midlands Council, with respect to all aspects of their role.

As leaders in the community, councillors acknowledge the importance of high standards of behaviour in maintaining good governance. Good governance supports each councillor's primary goal of acting in the best interests of the community.

Councillors therefore agree to conduct themselves in accordance with the standards of behaviour set out in the Code of Conduct.

This Code of Conduct incorporates the Model Code of Conduct made by Order of the Minister responsible for local government.

2. APPLICATION

This Code of Conduct applies to a councillor whenever he or she:

- conducts council business, whether at or outside a meeting;
- conducts the business of his or her office (which may be that of mayor, deputy mayor or councillor); or
- acts as a representative of the Council.

A complaint or failure to comply with the provisions of the Code of Conduct may be made where the councillor fails to meet the standard of conduct specified in the Model Code of Conduct.

3. STANDARDS OF CONDUCT

The model code of conduct provides for the following eight standards of conduct:



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DECISION MAKING

A councillor is to bring an open and unprejudiced mind to all matters being considered in the course of his or her duties, so that decisions are made in the best interests of the community.

CONFLICT OF INTEREST

A councillor effectively manages conflict of interest by ensuring that personal or private interests do not influence, and are not seen to influence, the performance of his or her role and acting in the public interest.

USE OF OFFICE

A councillor uses his or her office solely to represent and serve the community, conducting himself or herself in a way that maintains the community's trust in the councillor and the Council as a whole.

USE OF RESOURCES

A councillor uses Council resources and assets strictly for the purpose of performing his or her role.

USE OF INFORMATION

A councillor uses information appropriately to assist in performing his or her role in the best interests of the community.

GIFTS AND BENEFITS

A councillor adheres to the highest standards of transparency and accountability in relation to the receiving of gifts or benefits, and carries out his or her duties without being influenced by personal gifts or benefits.

RELATIONSHIPS WITH COMMUNITY, COUNCILLORS AND COUNCIL EMPLOYEES

A councillor is to be respectful in his or her conduct, communication and relationships with members of the community, fellow councillors and Council employees in a way that builds trust and confidence in the Council.

REPRESENTATION

A councillor is to represent himself or herself and the Council appropriately and within the ambit of his or her role, and clearly distinguish between his or her views as an individual and those of the Council.

4. PRINCIPLES OF GOOD GOVERNANCE

By adopting this Code of Conduct, councillors commit to the overarching principles of good governance by being:

ACCOUNTABLE

Explain, and be answerable for, the consequences of decisions made on behalf of the community it represents and serves.

TRANSPARENT

Ensure decision making processes can be clearly followed and understood by the community.

LAW-ABIDING

Ensure decisions are consistent with relevant legislation or common law, and be within the powers of local government.

RESPONSIVE

Always try to represent and serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner.



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EQUITABLE

Provide all groups with the opportunity to participate in the decision making process and treat all groups equally.

PARTICIPATORY AND INCLUSIVE

Ensure that anyone affected by or interested in a decision has the opportunity to participate in the process for making that decision.

EFFECTIVE AND EFFICIENT

Implement decisions and follow processes that make the best use of the available people, resources and time, to ensure the best possible results for the community.

CONSENSUS ORIENTED

Wherever possible, take into account the different views and interests in the community, to reach a majority position on what is in the best interests of the whole community, and how it can be achieved.

6. COMPLYING WITH THE CODE OF CONDUCT

Tasmanian councillors are required to comply with the provisions of the Council's Code of Conduct while performing the functions and exercising the powers of his or her office with the Council.

The Code of Conduct incorporates the Model Code of Conduct (made by order of the Minister responsible for local government) and may include permitted variations included as attached schedules to the Model Code of Conduct.

7. MAKING A CODE OF CONDUCT COMPLAINT

A person may make a code of conduct complaint against one councillor in relation to the contravention by the councillor of the relevant council's code of conduct.

A person may make a complaint against more than one councillor if the complaint relates to the same behaviour and the same code of conduct contravention.

Code of conduct complaints are lodged with the general manager of the relevant council and must comply with legislative requirements, as outlined below.

A complaint may not be made by more than two complainants jointly.

A code of conduct complaint is to –

- be in writing;
- state the name and address of the complainant;
- state the name of each councillor against whom the complaint is made;
- state the provisions of the relevant code of conduct that the councillor has allegedly contravened;
- contain details of the behaviour of each councillor that constitutes the alleged contravention;
- be lodged with the general manager within six months after the councillor or councillors against whom the complaint is made allegedly committed the contravention of the code of conduct; and
- be accompanied by the code of conduct complaint lodgement fee.

Once satisfied that the code of conduct complaint meets prescribed requirements, the General Manager forwards the complaint to the Code of Conduct Panel.

The code of conduct complaint lodgement fee is prescribed under Schedule 3 (Fees) of the



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8. DISPUTE RESOLUTION

Councillors commit to developing strong and positive working relationships and working effectively together at all times.

Prior to commencing a formal code of conduct complaint, the councillors who are parties to any disagreement should endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to act in the best interests of the community.

A council's internal dispute resolution process should be the first step that is taken when there is a dispute between councillors.

A councillor who is party to any disagreement should request the Mayor (or Lord Mayor) or the General Manager to assist that councillor in resolving the disagreement informally.

If the informal assistance does not resolve the disagreement, the General Manager may, with the consent of the parties involved, choose to appoint an external mediator to assist in the resolution of the disagreement. If an external mediator is appointed, councillors who are party to the disagreement must strive to cooperate with the mediator and use their best endeavours to assist the mediator and participate in the mediation arranged.

Where a matter cannot be resolved through internal processes, the next step may be to lodge a formal code of conduct complaint.

Councillors should only invoke the provisions of the Code of Conduct in good faith, where it is perceived that another councillor has not complied with the provisions or intent of the Code of Conduct.

The Director of Local Government is responsible for the investigation of complaints regarding alleged breaches of the Act.

Any person can make a complaint to the Director, via the Local Government Division (contact details below), in accordance with section 339E of the Act, where it is genuinely believed that a council, councillor or general manager may have committed an offence under the Act or failed to comply with the requirements of the Act.

To make a complaint, it is recommended that you first contact the Local Government Division to discuss whether the matter is something that the Division can assist with.

9. PUBLIC INTEREST DISCLOSURE

Any instances of suspected corrupt conduct, maladministration and serious and substantial waste of public resources or substantial risk to public health or safety or to the environment should be reported in accordance with the *Public Interest Disclosures Act 2002*. Disclosures may be made to the Tasmanian Ombudsman or the Tasmanian Integrity Commission.

10. KEY CONTACTS

Department of Premier and Cabinet's Local Government Division

Level 5, 15 Murray Street, HOBART TAS 7000

GPO Box 123, HOBART TAS 7001

Phone: (03) 6232 7022 Fax: (03) 6173 0257

Email: lgd@dpac.tas.gov.au

Web: www.dpac.tas.gov.au/divisions/local_government

Local Government Association of Tasmania

326 Macquarie Street, HOBART TAS 7000

GPO Box 1521, HOBART TAS 7001

Phone: (03) 6233 5966

Email: admin@lgat.tas.gov.au

Web: www.lgat.tas.gov.au



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The Tasmanian Integrity Commission
Surrey House, Level 2, 199 Macquarie Street, HOBART TAS 7000
GPO Box 822, HOBART TAS 7001
Phone: 1300 720 289
Email: mper@integrity.tas.gov.au
Web: www.integrity.tas.gov.au

Ombudsman Tasmania
NAB House, Level 6, 86 Collins Street, HOBART TAS 7000
GPO Box 960, HOBART TAS 7001
Phone: 1800 001 170 Fax: (03) 6173 0231
Email: ombudsman@ombudsman.tas.gov.au
Web: www.ombudsman.tas.gov.au

11. REVIEW

This Policy is due for review by Council within 3 months of an ordinary Council election.



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CODE OF CONDUCT

PART 1 - DECISION MAKING

- 1.1 A councillor must bring an open and unprejudiced mind to all matters being decided upon in the course of his or her duties, including when making planning decisions as part of the Council's role as a Planning Authority.
- 1.2 A councillor must make decisions free from personal bias or prejudice.
- 1.3 In making decisions, a councillor must give genuine and impartial consideration to all relevant information known to him or her, or of which he or she should have reasonably been aware.
- 1.4 A councillor must make decisions solely on merit and must not take irrelevant matters or circumstances into account when making decisions.

PART 2 - CONFLICT OF INTERESTS THAT ARE NOT PECUNIARY

- 2.1 When carrying out his or her public duty, a councillor must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that he or she may have.
- 2.2 A councillor must act openly and honestly in the public interest.
- 2.3 A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the Council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the Council.
- 2.4 A councillor must act in good faith and exercise reasonable judgement to determine whether he or she has an actual, potential or perceived conflict of interest.
- 2.5 A councillor must avoid, and remove himself or herself from, positions of conflict of interest as far as reasonably possible.
- 2.6 A councillor who has an actual, potential or perceived conflict of interest in a matter before the Council must –
 - (a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and
 - (b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the councillor to remove himself or herself physically from any Council discussion and remain out of the room until the matter is decided by the Council.
- 2.7 This Part does not apply in relation to a pecuniary interest.

PART 3 - USE OF OFFICE

- 3.1 The actions of a councillor must not bring the Council or the office of councillor into disrepute.
- 3.2 A councillor must not take advantage, or seek to take advantage, of his or her office or status to improperly influence others in order to gain an undue, improper, unauthorised or unfair benefit or detriment for himself or herself or any other person or body.
- 3.3 In his or her personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), a councillor must not expect nor request, expressly or implicitly, preferential treatment for himself or herself or any other person or body.



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PART 4 - USE OF RESOURCES

- 4.1 A councillor must use Council resources appropriately in the course of his or her public duties.
- 4.2 A councillor must not use Council resources for private purposes except as provided by Council policies and procedures.
- 4.3 A councillor must not allow the misuse of Council resources by any other person or body.

PART 5 - USE OF INFORMATION

- 5.1 A councillor must only access or use Council information needed to perform his or her role and not for personal reasons or non-official purposes.
- 5.2 A councillor must only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

PART 6 - GIFTS AND BENEFITS

- 6.1 A councillor may accept an offer of a gift or benefit if it directly relates to the carrying out of the councillor's public duties and is appropriate in the circumstances and is not in contravention of any relevant legislation.
- 6.2 A councillor must avoid situations in which a reasonable person would consider that any person or body, through the provisions of gifts or benefits of any kind, is securing (or attempting to secure) influence or a favour from the councillor or the Council.

PART 7 - RELATIONSHIPS WITH COMMUNITY, COUNCILLORS AND COUNCIL EMPLOYEES

- 7.1 A councillor –
 - (a) must treat all persons fairly; and
 - (b) must not cause any reasonable person offence or embarrassment; and
 - (c) must not bully or harass any person.
- 7.2 A councillor must listen to, and respect, the views of other councillors in Council and committee meetings and any other proceedings of the Council, and endeavour to ensure that issues, not personalities, are the focus of debate.
- 7.3 A councillor must not contact or issue instructions to any of the Council's contractors or tenderers, without appropriate authorisation.
- 7.4 A councillor must not contact an employee of the Council in relation to Council matters unless authorised by the General Manager of the Council.

PART 8 - REPRESENTATION

- 8.1 When giving information to the community, a councillor must accurately represent the policies and decisions of the Council.
- 8.2 A councillor must not knowingly misrepresent information that he or she has obtained in the course of his or her duties.
- 8.3 A councillor must not speak on behalf of the Council unless specifically authorised or delegated by the Mayor or Lord Mayor.
- 8.4 A councillor must clearly indicate when he or she is putting forward his or her personal views.



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- 8.5 A councillor's personal views must not be expressed publicly in such a way as to undermine the decisions of the Council or bring the Council into disrepute.
- 8.6 A councillor must show respect when expressing personal views publicly.
- 8.7 The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council.
- 8.8 When representing the Council on external bodies, a councillor must strive to understand the basis of the appointment and be aware of the ethical and legal responsibilities attached to such an appointment.

PART 9 - VARIATION OF CODE OF CONDUCT

- 9.1 Any variation of this model code of conduct is to be in accordance with section 28T of the *Local Government Act 1993*.