

1.1.10 Code of Conduct Behaviour Complaints Management Policy

Type:	Office of the CEO – Elected Members
Legislation:	Local Government (Model Code of Conduct) Regulations 2021
Delegation:	N/A
Other Related Document:	Local Government Legislation Amendment Act 2019

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Policy Objective

To establish, in accordance with Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and the Town of East Fremantle Code of Conduct for Council Members, the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Town of East Fremantle Code of Conduct for Council Members, Committee Members and Candidates.

To give effect to the Town of East Fremantle's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

Policy Scope

This Policy applies to complaints made in accordance with Clause 11 of the Town of East Fremantle Code of Conduct for Council Members, Committee Members and Candidates.

This Policy applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

Definitions

Act means the *Local Government Act 1995*.

Behaviour Complaints Committee means the Committee established by the Council in accordance with s.5.8 of the Act for the purpose of dealing with Complaints. The role of the Behaviour Complaints Committee is outlined in Part 2.3 of this Policy.

Behaviour Complaints Officer means a person authorised in writing by the CEO exercising delegated authority under clause 11(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.

Breach means a breach of Division 3 of the Town of East Fremantle Code of Conduct for Council Members, Committee Members and Candidates.

Candidate means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act, but does not include a Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

Candidate Complaint means a Complaint alleging a Breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

Code of Conduct means the Town of East Fremantle Code of Conduct for Council Members, Committee Members and Candidates.

Committee means a committee of Council, established in accordance with s.5.8 of the Act.

Committee Member means a Council Member, employee of the Town of East Fremantle or other person who has been appointed by the Council to be a member of a Committee, in accordance with s.5.10(1) of the Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

Complaint means a complaint submitted under Clause 11 of the Code of Conduct.

Complainant means a person who has submitted a Complaint in accordance with this Policy.

Complaint Assessor means a person appointed by the Behaviour Complaints Officer in accordance with Part 2.2 and Part 3.8 of this Policy.

Complaint Documents means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

Complaint Form means the form approved under clause 11(2)(a) of the Code of Conduct by Council resolution.

Council means the Council of the Town of East Fremantle.

Council or Committee Meeting means a formal meeting of the Council or a Committee 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.

Finding means a finding made in accordance with clause 12(1) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

Plan means a Plan that may be prepared and implemented under clause 12(4)(b) of the Code of Conduct, 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.

Response Documents means the response provided by the Respondent to the Complaint, and includes any supporting information or evidence that is supplied.

Policy Statement

1. Principles

1.1 Procedural fairness

The principles of procedural fairness, or natural justice, will apply when dealing with a Complaint under this Policy. In particular:

- the Respondent will be afforded a reasonable opportunity to be heard before any findings are made, or a plan implemented;
- the decision maker should be objective and impartial, with an absence of bias or the perception of bias; and
- any findings made will be based on proper and genuine consideration of the evidence.

1.2 Consistency

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each Complaint considered and determined on its merits, similar circumstances will result in similar decisions.

1.3 Confidentiality

The Town of East Fremantle will take all reasonable steps to maintain confidentiality when dealing with the Complaint, in order to protect both the Complainant and Respondent.

Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely, and must not disclose or inappropriately use this information.

Complainants will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the progress of their Complaint.

Note: A breach of confidentiality by Council Members or Committee Members under an adopted Complaints Policy would breach the Code of Conduct clause 8(2)(b) requirement to comply with all Local Government Policies. In the case of Council Members, this may also be a breach of Rule of Conduct 18(1).

1.4 Accessibility

The Town of East Fremantle will ensure that information on how to make a complaint, including this Policy, is available at the Town of East Fremantle's Administration Building and on the Town of East Fremantle's website. The Town of East Fremantle will make information available in alternative formats if requested.

Any person wishing to make a complaint may contact the Behaviour Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

Behaviour Complaints Officer – Chief Executive Officer

Phone : 9339 9339

Email: gtuffin@eastfremantle.wa.gov.au

2. Roles

2.1 Behaviour Complaints Officer

The Behaviour Complaints Officer is authorised in accordance with clause 11(3) of the Code of Conduct to accept complaints and withdrawal of complaints.

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

The Behaviour Complaints Officer will liaise with and provide administrative support to a Complaint Assessor appointed under this Policy.

The Behaviour Complaints Officer will liaise with the Local Government to facilitate the calling and convening of Council or Behaviour Complaints Committee meetings if required.

In undertaking their functions, the Behaviour Complaints Officer will apply the Principles of this Policy.

2.2 Complaint Assessor

The Complaint Assessor is appointed by the Behaviour Complaints Officer in accordance with Part 3.8 of this Policy.

The Complaint Assessor is an impartial third party who will undertake the functions specified in this Policy. In undertaking their functions, the Complaint Assessor will apply the Principles of this Policy.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to manage the administrative requirements of dealing with the Complaint in accordance with this Policy.

2.3 Behaviour Complaints Committee

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the Act for the purpose of dealing with Complaints.

The Behaviour Complaints Committee is a Committee of Council Members only. The membership and purpose of the Behaviour Complaints Committee is outlined in Behaviour Complaints Committee Terms of Reference.

3. Procedure

3.1 Making a complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Code of Conduct *[clause 11(1) of the Code of Conduct]*.

A Complaint must be made within one (1) month after the alleged Breach *[clause 11(2)(c) of the Code of Conduct]*.

A Complaint must be made by completing the Behaviour Complaint Form in full and providing the completed forms to the Behaviour Complaints Officer.

A Complaint must be made in accordance with the Behaviour Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached.

A Complaint is required to include the name and contact details of the Complainant therefore anonymous complaints cannot be accepted.

Where a Complaint Form omits required details, the Behaviour Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

Where a Complaint is made more than 1 month after the alleged breach, the Behaviour Complaints Officer will give the Complainant written notice that the Complaint cannot be made *[clause 11(2)(c) of the Code of Conduct]*.

3.2 Candidate Complaints

A Complaint in relation to a Candidate must be made in accordance with 3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.

Within 7 days after receiving a Candidate Complaint, the Behaviour Complaints Officer will provide written notice:

- To the Complainant confirming receipt, and advising of the procedure for candidate complaints; and
- To the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.

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 Behaviour Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with *[clause 15(1) of the Code of Conduct]*.

3.3 Withdrawing a Complaint

A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint *[clause 14 of the Code of Conduct]*.

A Complainant may withdraw a Complaint by advising the Behaviour Complaints Officer in writing that they wish to do so.

After receiving a written withdrawal of the Complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

3.4 Notice to Complainant

Within 7 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Complainant that:

- confirms receipt of the Complaint;
- outlines the process that will be followed and possible outcomes;
- explains the application of confidentiality to the complaint;
- includes a copy of this Policy; and
- if necessary, seeks clarifications or additional information.

If the Complaint Form indicates that the Complainant agrees to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will advise the Complainant of the process in accordance with Part 3.6 of this Policy.

3.5 Notice to Respondent

Within 14 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Respondent that:

- advises that a Complaint has been made in accordance with the Code of Conduct and this Policy;
- includes a copy of the Complaint Documents;
- outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
- includes a copy of this Policy; and
- if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

If the Complainant has agreed to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 3.6 of this Policy.

3.6 Alternative Dispute Resolution

The Town of East Fremantle recognises that Alternative Dispute Resolution may support both parties 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.

To commence the process, the Behaviour Complaints Officer will, as the first course of action upon receiving a complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution. If both parties agree to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will pause the formal process.

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, in accordance with Part 3.3 of this Policy. 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.

If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of a third party who is providing assistance to the Local Government, such as a facilitator or mediator.

If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the Complaint, the Behaviour Complaints Officer will resume the formal process required under this Policy.

3.7 Order of Complaints

Complaints will normally be dealt with in the order in which they are received.

If more than one Complaint is received that relates to the same alleged behaviour, the Behaviour Complaints Officer may decide to progress those Complaints concurrently.

3.8 Appointment of Complaints Assessor

If Alternative Dispute Resolution is not commenced, is terminated or does not achieve an agreed outcome resulting in the withdrawal of the Complaint, the Behaviour Complaints Officer will appoint a suitably qualified and experienced Complaint Assessor, in accordance with the Town of East Fremantle's Purchasing Policy.

The Behaviour Complaints Officer will endeavour to appoint a Complaint Assessor within a reasonable period. The Behaviour Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

3.9 Search of Local Government Records

The Complaint Assessor may request the Behaviour Complaints Officer to search for any relevant records in the Town of East Fremantle's Record Management System.

In particular, if the behaviour is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Officer will be requested to identify any Local Government records that provide evidence that may support a decision as to whether:

- the behaviour occurred at a Council or Committee Meeting,
- the behaviour was dealt with by the person presiding at the meeting, and/or
- the Respondent has taken remedial action in accordance with the Town of East Fremantle's Meeting Procedures Local Law 2016.

The Complaints Assessor must provide the Respondent with a copy of any records that are identified. In addition, where a clarification or additional information has been sought from the Complainant by either the Behaviour Complaints Officer or the Complaint Assessor, copies must also be provided to the Respondent.

3.10 Assessment of the Complaint

The Complaint Assessor will undertake an assessment of the Complaint in accordance with the process outlined in the Notices given under Part 3.4 and Part 3.5 of this Policy.

The Complaint Assessor must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions, or drafting the Complaint Report or recommendations.

3.11 Complaint Report

The Complaint Assessor will prepare a Complaint Report that will:

- outline the process followed, including how the Respondent was provided with an opportunity to be heard;
- include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments; and
- include recommendations on each decision that may be made by the Complaints Committee; and
- include reasons for each recommendation, with reference to Part 4 of this Policy.
- Provide the Respondent with a copy of the draft Complaint Report, and give them 7 days to make a submission before the report is finalised.

If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to include the Complaint Report in the Agenda for a meeting of the Complaints Committee. The Behaviour Complaints Officer will be responsible for preparation of an Officer Report with the Complaint Report provided as a confidential attachment. The recommendations of the Complaint Report will be provided as the Officer Recommendations.

3.12 Complaints Committee Meeting

The Agenda will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

The Behaviour Complaints Committee will consider the Complaint Report and attachments and give due regard to the recommendations.

In accordance with Regulation 11(d)(a) of the *Local Government (Administration) Regulations 1996*, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Committee will determine whether or not to dismiss the Complaint in accordance with Clause 13 of the Code of Conduct and Part 4.2 of this Policy.

If the Behaviour Complaints Committee dismisses a Complaint, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause 13(2) of the Code of Conduct. This concludes the process for this Complaint.

If the Complaint is not dismissed, the Behaviour Complaints Committee will consider the Complaint and make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause 12 of the Code of Conduct and Part 4.3 of this Policy.

If the Behaviour Complaints Committee finds that the alleged Breach **did not** occur, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the Finding and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee finds that the alleged breach **did** occur, the Committee will decide whether to take no further action in accordance with clause 12(4)(a) of the Code of Conduct or prepare a plan to address the behaviour in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy.

If the Behaviour Complaints Committee decides to take no further action, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee decides to prepare a Plan, the Committee will first consult with the Respondent in accordance with clause 12(5)* of the Code of Conduct. The Behaviour Complaints Committee will consider any submissions made by the Respondent before preparing and implementing a Plan.

3.13 Compliance with Plan Requirement

The Behaviour Complaints Officer will monitor the actions in timeframes set out in a Plan.

Failure to comply with a requirement included in a Plan is a minor breach under section 5.105(1) of the Act and clause 23 of the Code of Conduct.

The Behaviour Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

4. Decision Making

4.1 Objective and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in Part 1 of this Policy.

4.2 Dismissal

The Behaviour Complaints Committee must dismiss a Complaint in accordance with clause 13(1)(a) and (b) of the Code of Conduct if it is satisfied that -

- (a) the behaviour to which the Complaint relates occurred at a Council or Committee Meeting; and
- (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the Respondent has taken remedial action in accordance with the Town of East Fremantle Meeting Procedures Local Law 2016.

4.3 Finding

A Finding that the alleged breach has occurred 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 [*clause 12(3) of the Code of Conduct*].

This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 3 of the Code of Conduct.

4.4 Action

In deciding whether to take no further action, or prepare and implement a Plan, the Complaints Committee may consider:

- the nature and seriousness of the breach(es);
- the Respondent's submission in relation to the contravention;
- whether the Respondent has breached the Code of Conduct knowingly or carelessly;
- whether the Respondent has breached the Code of Conduct on previous occasions;
- likelihood or not of the Respondent committing further breaches of the Code of Conduct;
- personal circumstances at the time of conduct;
- need to protect the public through general deterrence and maintain public confidence in Local Government; and
- any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

4.5 Plan Requirements

The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following:

- engage in mediation;
- undertake counselling;
- undertake training;
- take other action the Complaints Committee considers appropriate (e.g. an apology).

The Proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct.

The Proposed Plan may also outline:

- the actions to be taken to address the behaviour(s);
- who is responsible for the actions;
- any assistance the Local Government will provide to assist achieve the intent of the Plan; and
- a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

Attachments

1. Behaviour Complaints Committee Terms of Reference
2. Behaviour Complaint Form

Responsible Directorate:	Office of the Chief Executive Officer
Reviewing Officer:	Chief Executive Officer
Decision making Authority:	Council
Policy Adopted:	18/5/21
Policy Amended/Reviewed:	

Behaviour Complaints Committee Terms of Reference

Objective

To establish Terms of Reference for the Behaviour Complaints Committee of the Town of East Fremantle.

Scope

These Terms of Reference apply exclusively to the Town of East Fremantle's Behaviour Complaints Committee.

Committee Function

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the *Local Government Act 1995* (the Act) for the purpose of dealing with Behaviour Complaints made under Division 3 of the Town of East Fremantle's Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

The extent of authority provided to the Behaviour Complaints Committee is specified in the relevant Delegated Authority, and includes:

- Dismissing a behaviour complaint in accordance with clause 13 of the Code of Conduct and providing reasons for any such dismissal.
- Making a Finding as to whether an alleged complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur [*clause 12(3) of the Code of Conduct*].
- Determining reasons for such a Finding.
- Where a Finding is made that a breach has occurred, determining:
 - To take no further action; or
 - Prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

The extent of authority of the Behaviour Complaints Committee is limited by Condition of the Delegated Authority.

Membership

The Complaints Committee is a Committee of Council Members only in accordance with s.5.9(2)(a) of the Act.

Membership of the Behaviour Complaints Committee will comprise of a minimum of three Council Members, appointed by Council in accordance with s.5.10 of the Act.

In addition, at least two Council Members will be appointed as Deputy Committee Members in accordance with s.5.11A of the Act.

The Delegated Authority Condition prescribes that if an appointed Committee Member is identified in the Complaint as either the Complainant or the Respondent, they are to recuse themselves from the Committee's Function by providing an apology. They are to be replaced for the duration of the handling of the subject Complaint by a Deputy Committee Member, selected by the Presiding Member of the Committee.

There is no external membership associated with this Group.

Term of membership

Two (2) years in line with the local government election cycle.

Presiding Member/Chairperson

The members shall elect a meeting Chairperson from the Group membership as required.

Meeting Schedule

Meetings are to be scheduled as required by the CEO or Behaviour Complaints Officer in consultation with the Committee Presiding Member.

Delegated Authority

The Behaviour Complaints Committee will act under Delegated Authority in accordance with s.5.16 of the Act. The delegation is recorded in the Town of East Fremantle Register of Delegations.

It is a Condition of Delegated Authority that the Behaviour Complaints Committee will be unable to exercise delegated authority if the Complainant or Respondent attend as a Complaints Committee Member.

Committee Governance

Complaints Behaviour Committee meetings are required to:

- be called and convened by the CEO, as required, in consultation with the Committee's Presiding Member;
- include public question time *[Admin.r.5]*
- make the Committee Notice Papers and Agenda publicly available *[s.5.94(p), s.5.96A(f)]*, with the exception of agenda content that relates to that part of the meeting which will be closed to members of the public under s.5.23(2) *[Admin.r.14]*; and
- make Committee minutes publicly available *[s.5.94(n), s.5.96A(h)]*, with the exception of Minutes content that relates to that part of the meeting which was closed to the public or was determined as confidential under s.5.23(2).

Administration

Town officers will:

- be responsible for coordinating meetings;
- circulate an agenda before each meeting to Committee Members;
- take Minutes of the meeting and register them in the City's Document Management System.

Document Control Box			
Document Responsibilities:			
Owner:	CEO	Owner Business Unit:	Office of the CEO
Reviewer:		Decision Maker:	Council
Compliance Requirements:			
Legislation:	Local Government Act 1995 Local Government (Model Code of Conduct) Regulations 2021		
Other:			
Organisational:	Council Policy 1.1.10 Code of Conduct Behaviour Complaints Management Delegated Authority DA84 Behaviour Complaints Committee		



Behaviour Complaint Form

Division 3 of the Code of Conduct for Council Members, Committee Members and Candidates

Instructions for: Making a complaint about an alleged breach of the Town of East Fremantle Code of Conduct for Council Members, Committee Members and Candidates

Behaviour Complaint

Please read the Town of East Fremantle's Code of Conduct Behaviour Complaints Policy on our website www.eastfremantle.wa.gov.au before submitting a complaint. This Policy details:

- How the Town of East Fremantle will process and determine a Behaviour Complaint; and
- How confidentiality of the complaint will be handled.

To make a valid **Behaviour Complaint**:

-
- The allegation must relate to a breach of the behaviour standards in Division 3 of the Town of East Fremantle's Code of Conduct for Council Members, Committee Members and Candidates.
-
- Complete all sections of the Behaviour Complaint Form attached, including any additional information that will support assessment of the complaint. *The Behaviour Complaints Officer may contact you to clarify or ask for more information.*
-
- The completed Behaviour Complaint Form **MUST** be lodged with the Town of East Fremantle Behaviour Complaints Officer within one (1) month of the alleged behaviour breach.
-

Rules of Conduct Complaint

A **Rules of Conduct Complaint** refers to a breach of the Rules of Conduct outlined in Division 4 of the Town of East Fremantle's Code of Conduct for Council Members and Candidates, including Council Members when acting as a Committee Member. This type of complaint is determined by the Local Government Standards Panel, administered through the Department of Local Government, Sport and Cultural Industries. Further information about Rules of Conduct Complaints may be obtained from:

- Department of Local Government, Sport and Cultural Industries: (08) 6552 7300 or www.dlgsc.wa.gov.au; OR
- The Town of East Fremantle's Rules of Conduct Complaints Officer: (08) 9339 9339 gtuffin@eastfremantle.wa.gov.au

Need Advice?

If you require advice in making a Behaviour Complaint, please contact the Town of East Fremantle's Behaviour Complaints Officer on (08) 9339 9339 by email

Behaviour Complaint Form

Town of East Fremantle Code of Conduct for Council Members, Committee Members and Candidates

Name of Person Making the Complaint				
Complainant Name: <i>Given Name/s and Family Name</i>				
Contact Details				
Residential Address:				
Postal Address:				
Phone:	Day-time:		Mobile:	
Email:				

Complaint Details:			
1.	Insert Name of Person alleged to have committed a behavior breach:		
2.	Select the position that the person was fulfilling at the time the person committed the alleged behaviour breach:	Council Member of the Town of East Fremantle	<input type="checkbox"/>
		Member of a Committee of the Town of East Fremantle	<input type="checkbox"/>
		Candidate for election at the Town of East Fremantle	<input type="checkbox"/>
3.	Date that the alleged behaviour breach occurred:		
4.	Location where the alleged behaviour breach occurred:		

5.	Which of the behaviours prescribed in Division 3 of the Town of East Fremantle's Code of Conduct do you allege this person has breached?	
Clause 8. Personal integrity		
(1) A council member, committee member or candidate —		
(a)	must ensure that their use of social media and other forms of communication complies with this code; and	<input type="checkbox"/>
(b)	must only publish material that is factually correct	<input type="checkbox"/>
(2) A council member or committee member —		
(a)	must not be impaired by alcohol or drugs in the performance of their official duties; and	<input type="checkbox"/>
(b)	must comply with all policies, procedures and resolutions of the local government.	<input type="checkbox"/>
Clause 9. Relationship with others		
A council member, committee member or candidate —		
(a)	must not bully or harass another person in any way; and	<input type="checkbox"/>
(b)	must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and	<input type="checkbox"/>
(c)	must not use offensive or derogatory language when referring to another person; and	<input type="checkbox"/>
(d)	must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and	<input type="checkbox"/>
(e)	must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.	<input type="checkbox"/>
Clause 10. Council or committee meetings		
When attending a council or committee meeting, a council member, committee member or candidate —		
(a)	must not act in an abusive or threatening manner towards another person; and	<input type="checkbox"/>
(b)	must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and	<input type="checkbox"/>
(c)	must not repeatedly disrupt the meeting; and	<input type="checkbox"/>
(d)	must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and	<input type="checkbox"/>
(e)	must comply with any direction given by the person presiding at the meeting; and	<input type="checkbox"/>
(f)	must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.	<input type="checkbox"/>

6.	State the full details of the alleged breach.

7	List any additional information you have provided as part of this complaint: <i>Please ensure all information relevant to the alleged breach has been attached. This information will be the basis on which the complaint is considered.</i>

9	Have you made any efforts to resolve the complaint with the Respondent? <i>Please note, you MUST complete this section</i>	
YES	<input type="checkbox"/>	<i>If yes, please describe the efforts that you have made.</i>
NO	<input type="checkbox"/>	<i>If no, please include a brief statement explaining why you have not made any efforts to resolve the issue with the person complained about.</i>

10	<p><i>The Town of East Fremantle has a policy that the Complainant and the Respondent be offered the opportunity to participate in an Alternative Dispute Resolution process, that if agreed to by BOTH parties, will be undertaken before the complaint is dealt with.</i></p> <p><i>The objective is to support both parties to reach a mutually satisfactory outcome that resolves the issues and restores the relationship between them. An outcome may be that as the Complainant, you will have absolute discretion to withdraw or continue with this Complaint.</i></p> <p><i>Please contact the Behaviour Complaints Officer if you would like more information.</i></p>		
	Would you agree to participate in an Alternative Dispute Resolution process?	YES	<input type="checkbox"/>
		NO	<input type="checkbox"/>

11	<p>Desired outcome of the Complaint</p> <p><i>Please explain what you would like to happen as a result of lodging this complaint, including the opportunity to participate in Alternative Dispute Resolution.</i></p>

COMPLAINANT <i>please sign and date</i>	
Signature:	
Date:	

Please submit completed Behaviour Complaint to:

The Town of East Fremantle's Behaviour Complaints Officer:

Mailing Address: gtuffin@eastfremantle.wa.gov.au

In person: 135 Canning Highway, East Fremantle

OFFICE USE ONLY: <i>Received by the Council appointed Behaviour Complaints Officer</i>	
Authorised Officer's Name:	
Authorised Officer's Signature:	
Date received:	



**Code of Conduct for Council Members, Committee
Members and Candidates
Behaviour Complaint
Statutory Declaration**

Oaths, Affidavits and Statutory Declarations Act 2005

Must be completed and submitted with the completed Behaviour Complaint Form

I

Insert your name

Insert your residential address

Insert your occupation

**Sincerely declare that the information I have provided in the attached Behaviour
Complaint dated** _____

Insert date

is a true and accurate representation of the alleged behavior breach.

**This declaration is true and I know that it is an offence to make a declaration
knowing that it is false in a material particular.**

**This declaration is made under the *Oaths, Affidavits and Statutory Declarations
Act 2005***

At:

place

On:

date

By:

signature of the person making the declaration

In the presence of:

signature of authorised witness

*See over page for list of
authorised witnesses
prescribed in the Oaths,
Affidavits and Statutory
Declarations Act 2005*

print name

qualification as such a witness

Schedule 2 — Authorised witnesses for statutory declarations

[s. 12(6)(a)]

Item	Formal description	Informal description
1.	A member of the academic staff of an institution established under any of the following Acts — <ul style="list-style-type: none"> • <i>Curtin University Act 1966</i>; • <i>Edith Cowan University Act 1984</i>; • <i>Murdoch University Act 1973</i>; • <i>University of Notre Dame Australia Act 1989</i>; • <i>University of Western Australia Act 1911</i>; • <i>Vocational Education and Training Act 1996</i>. 	Academic (post-secondary institution)
2.	A member of any of the following bodies — <ul style="list-style-type: none"> • Association of Taxation and Management Accountants (ACN 002 876 208); • CPA Australia (ACN 008 392 452); • The Institute of Chartered Accountants in Australia (ARBN 084 642 571); • Institute of Public Accountants (ACN 004 130 643); • National Tax & Accountants' Association Limited (ACN 057 551 854). 	Accountant
3.	A person who is registered under the <i>Architects Act 2004</i> .	Architect
4.	An Australian Consular Officer within the meaning of the <i>Consular Fees Act 1955</i> of the Commonwealth.	Australian Consular Officer
5.	An Australian Diplomatic Officer within the meaning of the <i>Consular Fees Act 1955</i> of the Commonwealth.	Australian Diplomatic Officer
6.	A bailiff appointed under the <i>Civil Judgments Enforcement Act 2004</i> .	Bailiff

Item	Formal description	Informal description
7.	A person appointed to be in charge of the head office or any branch office of an authorised deposit-taking institution carrying on business in the State under the <i>Banking Act 1959</i> of the Commonwealth.	Bank manager
8.	A member of Governance Institute of Australia Ltd (ACN 008 615 950).	Chartered secretary, governance adviser or risk manager
9.	A person who is registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the pharmacy profession.	Chemist
10.	A person who is registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the chiropractic profession.	Chiropractor
11.	A person registered as an auditor or a liquidator under the <i>Corporations Act 2001</i> of the Commonwealth.	Company auditor or liquidator
12.	A judge, master, magistrate, registrar or clerk, or the chief executive officer, of any court of the State or the Commonwealth.	Court officer
13.	A member of the Australian Defence Force who is — <ul style="list-style-type: none"> • an officer within the meaning of the <i>Defence Force Discipline Act 1982</i> of the Commonwealth; or • a non-commissioned officer within the meaning of that Act with 5 or more years of continuous service; or • a warrant officer within the meaning of that Act. 	Defence force officer
14.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law.	Dentist

Item	Formal description	Informal description
15.	A person who is registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the medical profession.	Doctor
15A.	A person appointed under the <i>Parliamentary and Electorate Staff (Employment) Act 1992</i> section 4(1)(b)(i) or (2)(b)(i)	Electorate officer of a member of State Parliament
16.	A member of the Institution of Engineers, Australia, other than at the grade of student.	Engineer
17.	The secretary of an organisation of employees or employers that is registered under one of the following Acts — <ul style="list-style-type: none"> • <i>Industrial Relations Act 1979</i>; • <i>Workplace Relations Act 1996</i> of the Commonwealth. 	Industrial organisation secretary
18.	A member of the National Insurance Brokers Association of Australia (ACN 006 093 849).	Insurance broker
19.	A Justice of the Peace.	Justice of the Peace
19A.	A person who is a member of the Authority's staff within the meaning given to that term by the <i>Land Information Authority Act 2006</i> section 3.	Landgate officer
20.	An Australian lawyer within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3.	Lawyer
21.	The chief executive officer or deputy chief executive officer of a local government.	Local government CEO or deputy CEO
22.	A member of the council of a local government within the meaning of the <i>Local Government Act 1995</i> .	Local government councillor
23.	A member of the Australasian Institute of Chartered Loss Adjusters (ACN 074 804 167).	Loss adjuster
24.	An authorised celebrant within the meaning of the <i>Marriage Act 1961</i> of the Commonwealth.	Marriage celebrant
25.	A member of either House of Parliament of the State or of the Commonwealth.	Member of Parliament

Item	Formal description	Informal description
25A.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the midwifery profession.	Midwife
26.	A minister of religion registered under Part IV Division 1 of the <i>Marriage Act 1961</i> of the Commonwealth.	Minister of religion
27.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the nursing profession.	Nurse
28.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the optometry profession.	Optometrist
28A.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the paramedicine profession.	Paramedic
29.	A registered patent attorney under the <i>Patents Act 1990</i> of the Commonwealth.	Patent attorney
30.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the physiotherapy profession.	Physiotherapist
31.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the podiatry profession.	Podiatrist
32.	A police officer.	Police officer
33.	The person in charge of an office established by, or conducted by an agent of, Australia Post within the meaning of the <i>Australian Postal Corporation Act 1989</i> of the Commonwealth.	Post office manager
34.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the psychology profession.	Psychologist
35.	A public notary within the meaning of the <i>Public Notaries Act 1979</i> .	Public notary
36.	An officer of the Commonwealth public service.	Public servant (Commonwealth)

Item	Formal description	Informal description
37.	A person who is employed under the <i>Public Sector Management Act 1994</i> Part 3.	Public servant (State)
38.	The holder of a licence under the <i>Real Estate and Business Agents Act 1978</i> .	Real estate agent
39.	The holder of a licence under the <i>Settlement Agents Act 1981</i> .	Settlement agent
40.	The Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia.	Sheriff or deputy sheriff
41.	A licensed surveyor within the meaning of the <i>Licensed Surveyors Act 1909</i> .	Surveyor
42.	A person registered under the <i>Teacher Registration Act 2012</i> .	Registered teacher
43.	A member, registrar or clerk, or the chief executive officer, of any tribunal of the State or the Commonwealth.	Tribunal officer
44.	A registered veterinary surgeon within the meaning of the <i>Veterinary Surgeons Act 1960</i> .	Veterinary surgeon