

## PURPOSE

This Code of Conduct provides direction and sets out the standards of behaviour expected of the Elected Members of the Glenorchy City Council (Council), with respect to all aspects of their role.

## SCOPE

This Code of Conduct applies to an Elected Member 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 Elected Member), or
- acts as a representative of the Council.

A complaint of failure to comply with the provisions of the Code of Conduct may be made where the Elected Member fails to meet the standard of conduct specified in the Model Code of Conduct (see Appendix 1).

It does not apply to any instances of suspected corrupt conduct, maladministration, serious and substantial waste of public resources, substantial risk to public health or safety or to the environment. Instances of this nature 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.

It also does not apply to other complaints of alleged breaches under the *Local Government Act 1993* (the LG Act): any person can make a complaint to the Director of Local Government, via the Local Government Division, in accordance with section 339E of the LG Act, where it is genuinely believed that a Council, Elected Member or General Manager may have committed an offence under the LG Act or failed to comply with the requirements of the LG Act.

## RELATED DOCUMENTS

- Good Governance Guide for Local Government in Tasmania (Department of Premier and Cabinet, June 2018)

## STATUTORY REQUIREMENTS

|             |  |
|-------------|--|
| Acts        | <ul style="list-style-type: none"> <li>• <i>Local Government Act 1993 - sections 28E, 28V</i></li> </ul>   |
| Regulations | <ul style="list-style-type: none"> <li>• <i>Local Government (General) Regulations 2015 - Schedule 3 (Fees)</i></li> <li>• <i>Local Government (Model Code of Conduct) Order 2016</i></li> </ul> |

## POLICY STATEMENT

### PURPOSE OF CODE OF CONDUCT

As leaders in the community, Elected Members acknowledge the importance of high standards of behaviour in maintaining good governance.

Good governance supports each Elected Members primary goal of acting in the best interests of the community.

Elected Members 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 (Appendix A) made by Order of the Minister responsible for Local Government.

### STANDARDS OF CONDUCT PRESCRIBED UNDER THE MODEL CODE OF CONDUCT

**The Model Code of Conduct provides for the following eight (8) standards of conduct (as accorded by the Good Governance Guide for Local Government in Tasmania): Decision Making**

An Elected Member is to bring an open and unprejudiced mind to all matters being considered in the course of their duties, so that decisions are made in the best interests of the community

#### **Conflict of Interest**

An Elected Member effectively manages conflict of interest by ensuring that personal or private interests do not influence, and are not seen to influence, the performance of their role and acting in the public interest

#### **Use of Office**

An Elected Member uses their office solely to represent and serve the community, conducting themselves in a way that maintains the community's trust in the Elected Member and the Council as a whole

#### **Use of Resources**

An Elected Member uses Council resources and assets strictly for the purpose of performing his or her role

#### **Use of Information**

An Elected Member uses information appropriately to assist in performing his or her role in the best interests of the community

#### **Gifts and Benefits**

An Elected Member adheres to the highest standards of transparency and accountability in relation to the receiving of gifts or benefits, and carries out their duties

without being influenced by personal gifts or benefits

**Relationships with Community,  
Elected Member and Council  
Employees**

An Elected Member is to be respectful in their conduct, communication and relationships with members of the Community, fellow Elected Members and Council employees in a way that builds trust and confidence in the Council

**Representation**

An Elected Member is to represent themselves and the Council appropriately and within the ambit of their role, and clearly distinguish between their views as an individual and those of the Council

**PRINCIPLES OF GOOD GOVERNANCE**

By adopting this Code of Conduct, Elected Members 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

**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 within the powers of local government

**Responsive**

Represent and serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner

**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**

Consider 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

## **APPENDIX A – MODEL CODE OF CONDUCT**

(As per Schedule 1 of the Local Government (Model Code of Conduct) Order 2016, as amended)

### PART 1 - Decision making

1. An Elected Member 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.
2. An Elected Member must make decisions free from personal bias or prejudice.
3. In making decisions, an Elected Member 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.
4. An Elected Member 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

1. When carrying out his or her public duty, an Elected Member must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that he or she may have.
2. An Elected Member must act openly and honestly in the public interest.
3. An Elected Member 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 Elected Member is appointed or nominated by the Council.
4. An Elected Member must act in good faith and exercise reasonable judgement to determine whether he or she has an actual, potential or perceived conflict of interest.
5. An Elected Member must avoid, and remove himself or herself from, positions of conflict of interest as far as reasonably possible.
6. An Elected Member 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 Elected Member to remove himself or herself physically from any Council discussion and remain out of the room until the matter is decided by the Council.

7. This Part does not apply in relation to a pecuniary interest.

### PART 3 - Use of Office

1. The actions of an Elected Member must not bring the Council or the office of Elected Member into disrepute.
2. An Elected Member 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. In his or her personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), an Elected Member must not expect nor request, expressly or implicitly, preferential treatment for himself or herself or any other person or body.

### PART 4 - Use of resources

1. An Elected Member must use Council resources appropriately in the course of his or her public duties.
2. An Elected Member must not use Council resources for private purposes except as provided by Council policies and procedures.
3. An Elected Member must not allow the misuse of Council resources by any other person or body.
4. ....

### PART 5 - Use of information

1. ....
2. An Elected Member must only access or use Council information needed to perform his or her role and not for personal reasons or non-official purposes.
3. ....
4. An Elected Member must only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

### PART 6 - Gifts and benefits

1. An Elected Member may accept an offer of a gift or benefit if it directly relates to the carrying out of the Elected Members public duties and is appropriate in the circumstances and is not in contravention of any relevant legislation.
2. An Elected Member 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 Elected Member or the Council.

3. ....
4. ....
5. ....
6. ....
7. ....
8. ....

#### PART 7 - Relationships with community, Elected Members and Council employees

1. An Elected Member –
  - (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.
2. An Elected Member must listen to, and respect, the views of other Elected Members 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.
3. ....
4. An Elected Member must not contact or issue instructions to any of the Council's contractors or tenderers, without appropriate authorisation.
5. An Elected Member 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

1. When giving information to the community, an Elected Member must accurately represent the policies and decisions of the Council.
2. An Elected Member must not knowingly misrepresent information that he or she has obtained in the course of his or her duties.
3. An Elected Member must not speak on behalf of the Council unless specifically authorised or delegated by the Mayor or Lord Mayor.
4. An Elected Member must clearly indicate when he or she is putting forward his or her personal views.
5. A Elected Members 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.
6. An Elected Member must show respect when expressing personal views publicly.
7. The personal conduct of an Elected Member must not reflect, or have the potential to reflect, adversely on the reputation of the Council.

8. When representing the Council on external bodies, an Elected Member 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

1. Any variation of this model code of conduct is to be in accordance with section 28T of the Act.

### **APPENDIX B - SUMMARY OF MAKING A CODE OF CONDUCT COMPLAINT PROCESS**

A person may make a code of conduct complaint against an Elected Member in relation to the contravention by that Elected Member of the Council's Code of Conduct (section 28V(1)).

A person may make a complaint against more than one Elected Member if the complaint relates to the same behaviour and the same code of conduct contravention (section 28V(2)).

Code of Conduct complaints are lodged with the General Manager and must comply with legislative requirements, as summarised below:

- A complaint may not be made by more than two complainants jointly (section 28V(5)).
- Under section 28V(3), a Code of Conduct complaint is to:
  - be in writing
  - state the name and address of the complainant
  - state the name of each Elected Member against whom the complaint is made
  - state the provisions of the Code of Conduct that the Elected Member has allegedly contravened
  - contain details of the behaviour of each Elected Member that constitutes the alleged contravention
  - be lodged with the General Manager within six (6) months after the Elected Member or Elected Members against whom the complaint is made allegedly committed the contravention of the Code of Conduct (if the subject matter of a complaint by its nature consists of a series of separate incidents that, taken together, form the subject matter, the period runs from the most recent of the incidents mentioned in the complaint)(section 28V(4))
  - be accompanied by a statutory declaration, signed by the complainant or by each complainant, verifying the accuracy of the information contained in the complaint
  - contain details of all efforts made by the complainant to resolve the issue that is the subject of the complaint, and
  - be accompanied by the Code of Conduct complaint lodgment fee.

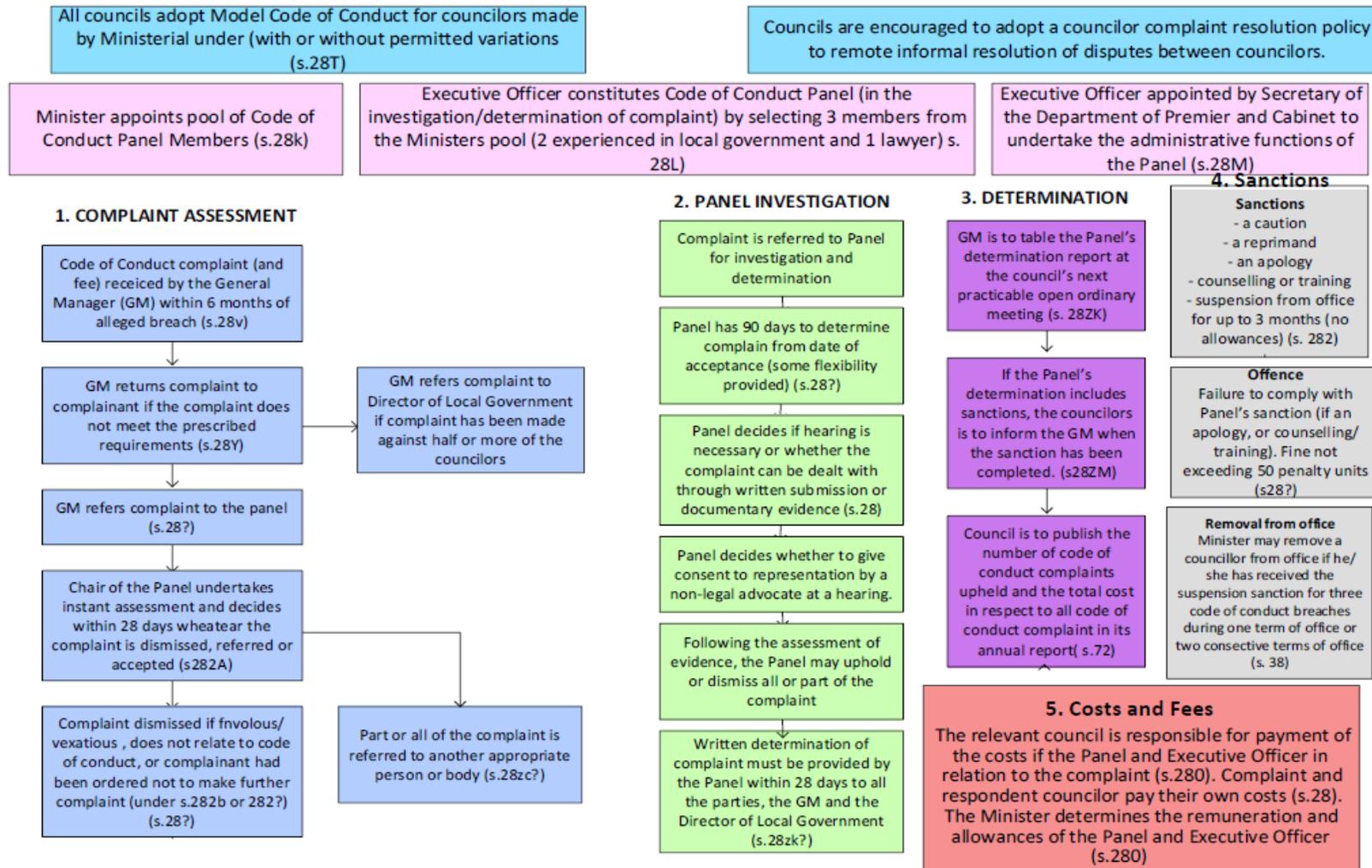
Once satisfied that the Code of Conduct complaint meets prescribed requirements, the General Manager will forward the complaint to the Code of Conduct Panel (if the complaint is less than half of all the Elected Members on Council) or to the Director of Local Government otherwise (section 28Z(1)).

The Code of Conduct complaint lodgement fee is prescribed under Schedule 3 [Fees] of the *Local Government (General) Regulations 2015*. The lodgement fee is 50 fee units (as amended from time to time through State Department of Treasury and Finance).

A flowchart summarising Code of Conduct complaint assessment, panel investigation, determination, sanctions and costs is attached (Appendix C).

**APPENDIX C – LOCAL GOVERNMENT CODE OF CONDUCT FLOWCHART**

**Local Government Code of Conduct Framework under the Local Government Act 1993 - Flowchart**



## APPENDIX D - ELECTED MEMBER DISPUTE RESOLUTION PRIOR TO CODE OF CONDUCT COMPLAINT

Prior to commencing a formal Code of Conduct complaint, the Elected Members 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.

In general, Council's internal dispute resolution process should be the first step that is taken when there is a dispute between Elected Members .

An Elected Member who is party to any disagreement should request the Mayor or the General Manager to assist that Elected Member 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, Elected Members 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.

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

### DOCUMENT CONTROL

|                                |  |                    |  |                          |                       |
|--------------------------------|--|--------------------|--|--------------------------|-----------------------|
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