

Procedures for the  
Administration of

# The Model Code of Conduct

for Local Councils in NSW

2018





**PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW**

2018

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# **Part 1:**

## **Introduction**



## Introduction

These procedures ("the Model Code Procedures") are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct").

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* ("the LGA") and the *Local Government (General) Regulation 2005* ("the Regulation"). Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

The Model Code Procedures are made under section 440AA of the LGA and the Regulation. Section 440AA of the LGA requires every council (including county councils) and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils and joint organisations may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

Note: References in these procedures to councils are also to be taken as references to county councils and joint organisations.

Note: In adopting the Model Code Procedures, joint organisations should adapt them to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

Note: In adopting the Model Code Procedures, county councils should adapt them to substitute the term "chairperson" for "mayor" and "member" for "councillor".

Note: Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the mayor) or the general manager.



## **Part 2:**

## **Definitions**



## Definitions

In these procedures the following terms have the following meanings:

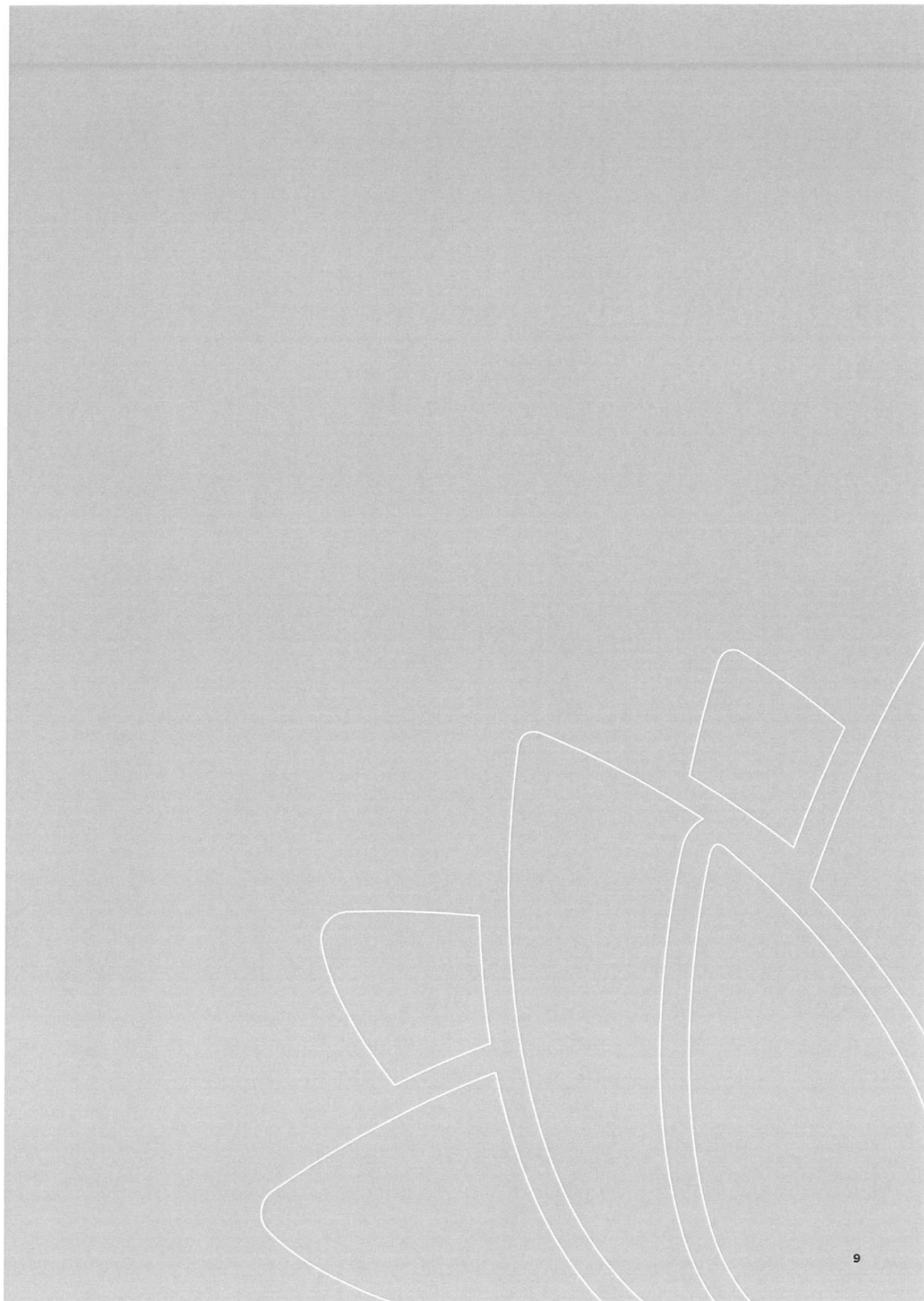
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee
councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
council official	any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
external agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
general manager	includes the executive officer of a joint organisation
ICAC	the Independent Commission Against Corruption
investigator	a conduct reviewer
joint organisation	a joint organisation established under section 4000 of the LGA



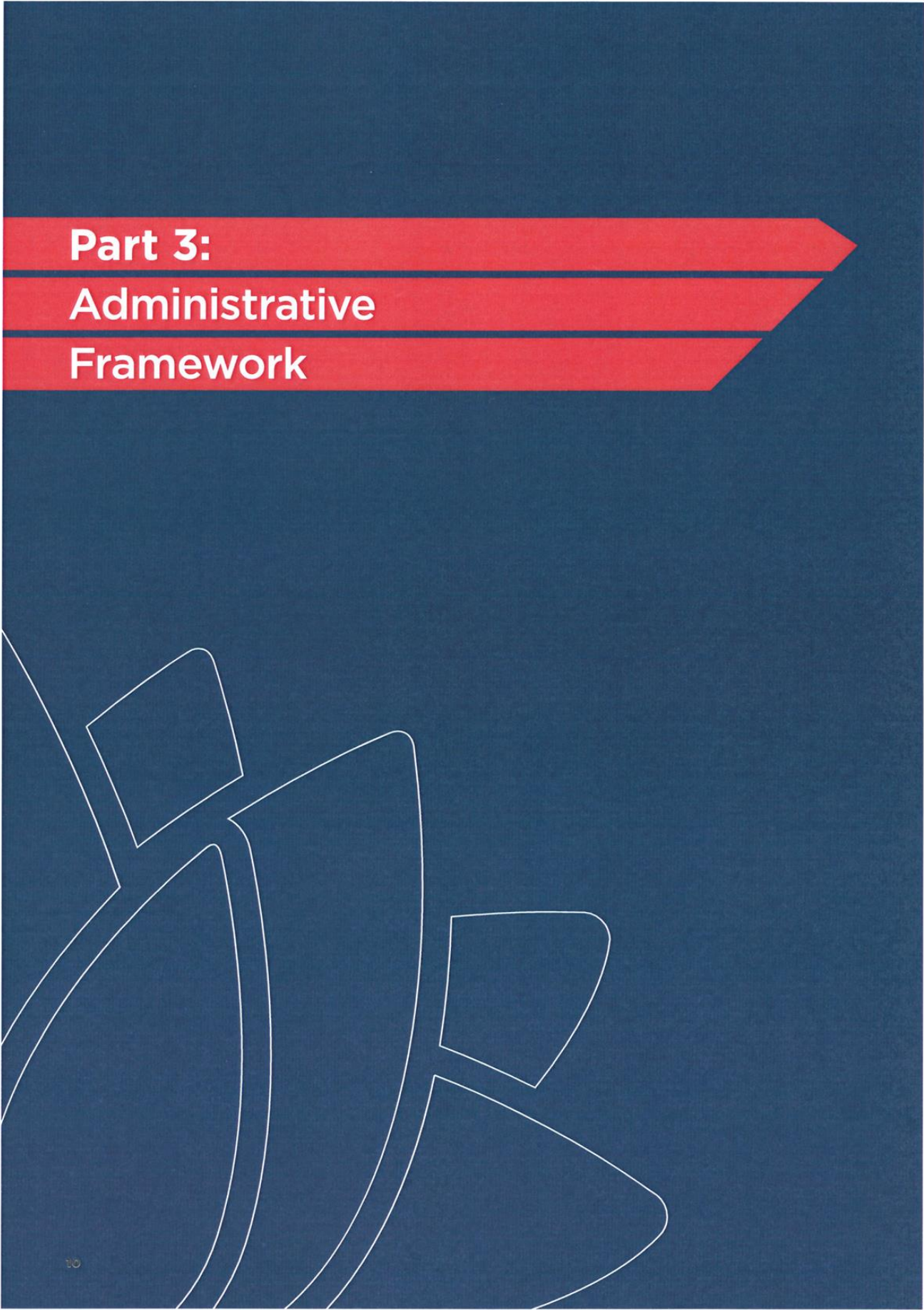
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LGA	the <i>Local Government Act 1993</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to









# **Part 3:**

## **Administrative**

## **Framework**



## The establishment of a panel of conduct reviewers

- 3.1 The council must by resolution establish a panel of conduct reviewers.
- 3.2 The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
  - a) an understanding of local government, and
  - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
  - c) knowledge and experience of one or more of the following:
    - i) investigations
    - ii) law
    - iii) public administration
    - iv) public sector ethics
    - v) alternative dispute resolution, and
  - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
  - a) a councillor, or
  - b) a nominee for election as a councillor, or
  - c) an administrator, or
  - d) an employee of a council, or
  - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.
- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time by resolution. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.



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- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

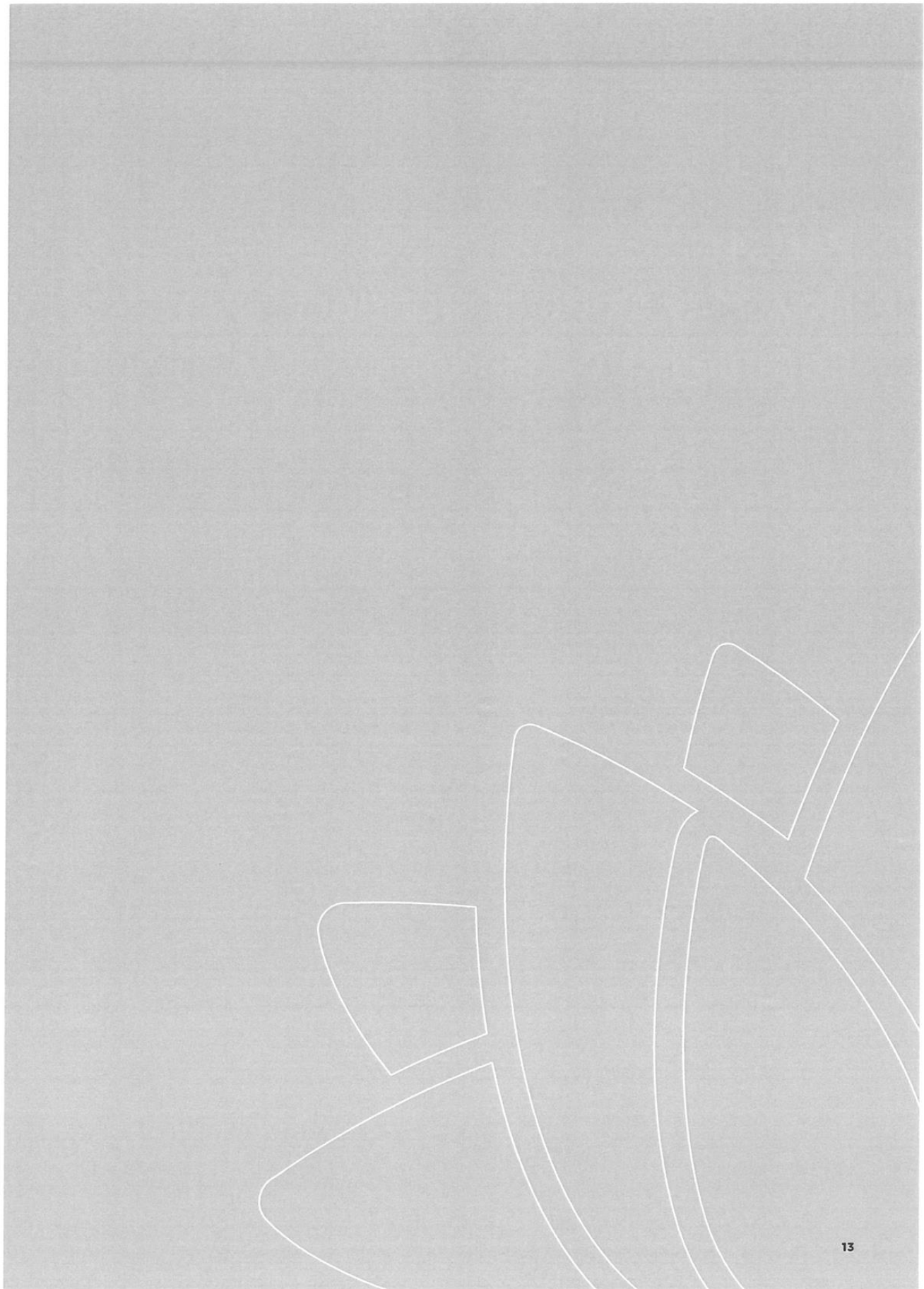
### **The appointment of an internal ombudsman to a panel of conduct reviewers**

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.
- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.
- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

### **The appointment of complaints coordinators**

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The general manager must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
- coordinate the management of complaints made under the council's code of conduct
  - liaise with and provide administrative support to a conduct reviewer
  - liaise with the Office and
  - arrange the annual reporting of code of conduct complaints statistics.







## **Part 4:**

# **How May Code of Conduct Complaints be Made?**



### How May Code Of Conduct Complaints be Made?

## What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
  - a) complaints about the standard or level of service provided by the council or a council official
  - b) complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
  - c) complaints about the policies or procedures of the council
  - d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under the council's routine complaints management processes.

## When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the general manager or their delegate, or, in the case of a complaint about the general manager, the mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct.



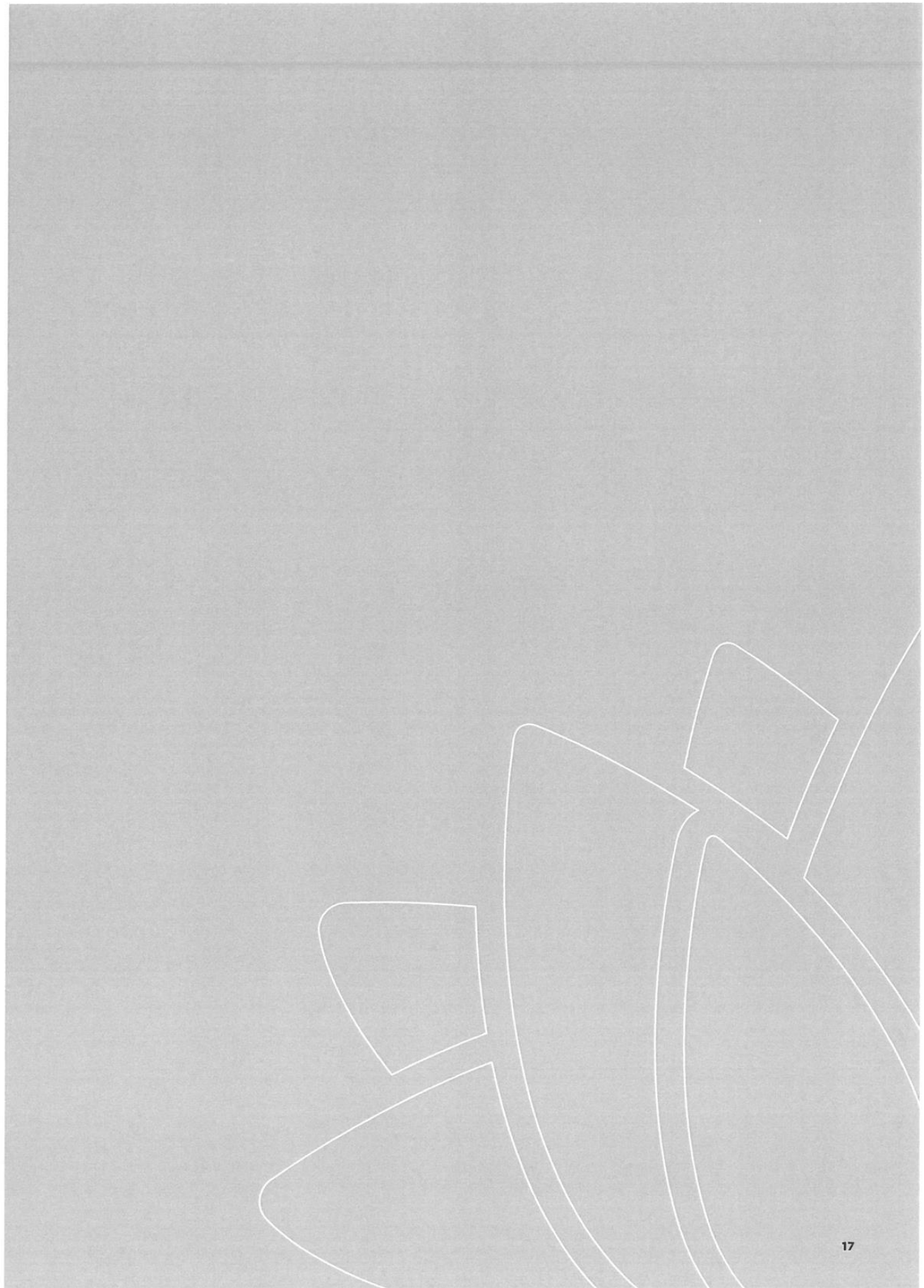
### How may a code of conduct complaint about a council official other than the general manager be made?

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The general manager or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the general manager becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

### How may a code of conduct complaint about the general manager be made?

- 4.11 Code of conduct complaints about the general manager are to be made to the mayor in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The mayor or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.15 Notwithstanding clauses 4.11 and 4.12, where the mayor becomes aware of a possible breach of the council's code of conduct by the general manager, they may initiate the process for the consideration of the matter under these procedures without a written complaint.







## **Part 5:**

# **How are Code of Conduct Complaints to be Managed?**



**How are Code of Conduct Complaints to be Managed?****Delegation by general managers and mayors of their functions under this Part**

- 5.1 A general manager or mayor may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the general manager or mayor are also to be taken to be references to their delegates.

- d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
- e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

**Consideration of complaints by general managers and mayors**

- 5.2 In exercising their functions under this Part, general managers and mayors may consider the complaint assessment criteria prescribed under clause 6.31.

**How are code of conduct complaints about staff (other than the general manager) to be dealt with?**

- 5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.
- 5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.

**What complaints may be declined at the outset?**

- 5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:
- a) is not a code of conduct complaint, or
  - b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
  - c) is trivial, frivolous, vexatious or not made in good faith, or



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- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

### **How are code of conduct complaints about delegates of council, council advisers and council committee members to be dealt with?**

- 5.10 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office

under clause 5.11 where they consider that no action is warranted in relation to the complaint.

- 5.13 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the general manager resolves a code of conduct complaint under clause 5.14 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
- a) censure



How are Code of Conduct Complaints to be Managed?

- b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
- c) prosecution for any breach of the law
- d) removing or restricting the person's delegation
- e) removing the person from membership of the relevant council committee.

5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:

- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
- b) the person must be given an opportunity to respond to the allegation, and
- c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

### **How are code of conduct complaints about administrators to be dealt with?**

5.18 The general manager must refer all code of conduct complaints about administrators to the Office for its consideration.

5.19 The general manager must notify the complainant of the referral of their complaint in writing.

### **How are code of conduct complaints about councillors to be dealt with?**

5.20 The general manager must refer the following code of conduct complaints about councillors to the Office:

- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
- b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)
- c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
- d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.

5.21 Where the general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.

5.22 The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.



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- 5.23 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

## **How are code of conduct complaints about the general manager to be dealt with?**

- 5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
  - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
  - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.
- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.



#### How are Code of Conduct Complaints to be Managed?

- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

### How are complaints about both the general manager and the mayor to be dealt with?

- 5.34 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:
- delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager where the allegation is not serious, or to a person external to the council, or
  - refer the matter to the complaints coordinator under clause 5.26 and clause 5.33.

### Referral of code of conduct complaints to external agencies

- 5.35 The general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The general manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.



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5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.

## **Disclosure of the identity of complainants**

5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:

- a) the complainant consents in writing to the disclosure, or
- b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
- c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
- d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
- e) it is otherwise in the public interest to do so.

5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.

5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.

5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.

5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.

5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

## **Code of conduct complaints made as public interest disclosures**

5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

5.46 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these



### How are Code of Conduct Complaints to be Managed?

procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.

- 5.47 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the general manager or the mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

### Special complaints management arrangements

- 5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
  - b) impeded or disrupted the effective administration by the council of its code of conduct, or
  - c) impeded or disrupted the effective functioning of the council.

- 5.50 A special complaints management arrangement must be in writing and must specify the following:

- a) the code of conduct complaints the arrangement relates to, and
- b) the period that the arrangement will be in force.

- 5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.

- 5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.

- 5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.

- 5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the general manager, review the arrangement to determine whether it should be renewed or amended.

- 5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.



## **Part 6:**

# **Preliminary Assessment of Code of Conduct Complaints About Councillors or the General Manager by Conduct Reviewers**



**Preliminary Assessment of Code of Conduct Complaints About  
Councillors or the General Manager by Conduct Reviewers**

## **Referral of code of conduct complaints about councillors or the general manager to conduct reviewers**

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
  - a) a panel of conduct reviewers established by the council, or
  - b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
  - a) they have a conflict of interest in relation to the matter referred to them, or
  - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
  - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
  - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven



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breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.

- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
  - a) comply with these procedures in their consideration of the matter, or
  - b) comply with a lawful and reasonable request by the complaints coordinator, or
  - c) exercise their functions in a timely or satisfactory manner.
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

## **Preliminary assessment of code of conduct complaints about councillors or the general manager by a conduct reviewer**

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
  - a) to take no action
  - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - d) to refer the matter to an external agency
  - e) to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.



**Preliminary Assessment of Code of Conduct Complaints About  
Councillors or the General Manager by Conduct Reviewers**

- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
  - b) that the alleged conduct is sufficiently serious to warrant investigation, and
  - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant investigation, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
  - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
  - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
  - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.



## Referral back to the general manager or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

## Complaints assessment criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
- a) whether the complaint is a code of conduct complaint for the purpose of these procedures
  - b) whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's code of conduct
  - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
  - d) whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
  - e) whether the complaint raises issues that would be more appropriately dealt with by an external agency
  - f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
  - g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - h) whether the issue/s giving rise to the complaint have previously been addressed or resolved



**Preliminary Assessment of Code of Conduct Complaints About  
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- i) any previous proven breaches of the council's code of conduct
- j) whether the conduct complained of forms part of an ongoing pattern of behaviour
- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.



## **Part 7:**

# **Investigations of Code of Conduct Complaints About Councillors or the General Manager**



## Investigations of Code of Conduct Complaints About Councillors or the General Manager

## What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

## How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
  - a) disclose the substance of the allegations against the respondent, and
  - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
  - c) advise of the process to be followed in investigating the matter, and

- d) advise the respondent of the requirement to maintain confidentiality, and
- e) invite the respondent to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice, and
- f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.

- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within at least 14 days or such other period specified by the investigator in the amended notice.
- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:



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- a) advise them of the matter the investigator is investigating, and
- b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
- c) invite the complainant to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice.

- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

## Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.

## How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.



**Investigations of Code of Conduct Complaints About Councillors or the General Manager**

## **Referral or resolution of a matter after the commencement of an investigation**

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - c) refer the matter to an external agency.
- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.

- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

## **Draft investigation reports**

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.



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- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.
- a) make findings of fact in relation to the matter investigated, and,
- b) make a determination that the conduct investigated either,
- i) constitutes a breach of the code of conduct, or
- ii) does not constitute a breach of the code of conduct, and
- c) provide reasons for the determination.
- 7.36 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a) that the council revise any of its policies, practices or procedures
- b) that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
- c) that the respondent be counselled for their conduct
- d) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
- e) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the recommendation
- f) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation
- g) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the council meeting at which the matter is considered

## Final investigation reports

- 7.33 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:



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- h) in the case of a breach by the general manager, that action be taken under the general manager's contract
  - i) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
  - j) in the case of a breach by a councillor, that the council resolves as follows:
    - i) that the councillor be formally censured for the breach under section 440G of the LGA, and
    - ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.37 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a) that the council revise any of its policies, practices or procedures
  - b) that a person or persons undertake any training or other education.
- 7.38 In making a recommendation under clause 7.36, the investigator may have regard to the following:
- a) the seriousness of the breach
  - b) whether the breach can be easily remedied or rectified
  - c) whether the respondent has remedied or rectified their conduct
  - d) whether the respondent has expressed contrition
  - e) whether there were any mitigating circumstances
  - f) the age, physical or mental health or special infirmity of the respondent
- g) whether the breach is technical or trivial only
  - h) any previous proven breaches
  - i) whether the breach forms part of an ongoing pattern of behaviour
  - j) the degree of reckless intention or negligence of the respondent
  - k) the extent to which the breach has affected other parties or the council as a whole
  - l) the harm or potential harm to the reputation of the council or local government in general arising from the conduct
  - m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
  - n) whether an educative approach would be more appropriate than a punitive one
  - o) the relative costs and benefits of taking formal disciplinary action as opposed to taking no action or taking informal action
  - p) what action or remedy would be in the public interest.
- 7.39 Where the investigator proposes to make a recommendation under clause 7.36(j), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.
- 7.40 At a minimum, the investigator's final report must contain the following information:
- a) a description of the allegations against the respondent



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- b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
  - c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
  - d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
  - e) a description of any attempts made to resolve the matter by use of alternative means
  - f) the steps taken to investigate the matter
  - g) the facts of the matter
  - h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
  - i) the investigator's determination and the reasons for that determination
  - j) any recommendations.
- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings
  - b) the investigator's determination and the reasons for that determination
  - c) any recommendations, and
  - d) such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraph (a) only, the complaints coordinator must provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.
- 7.45 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (b) or (c) only, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.
- 7.46 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)),



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the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

### **Consideration of the final investigation report by council**

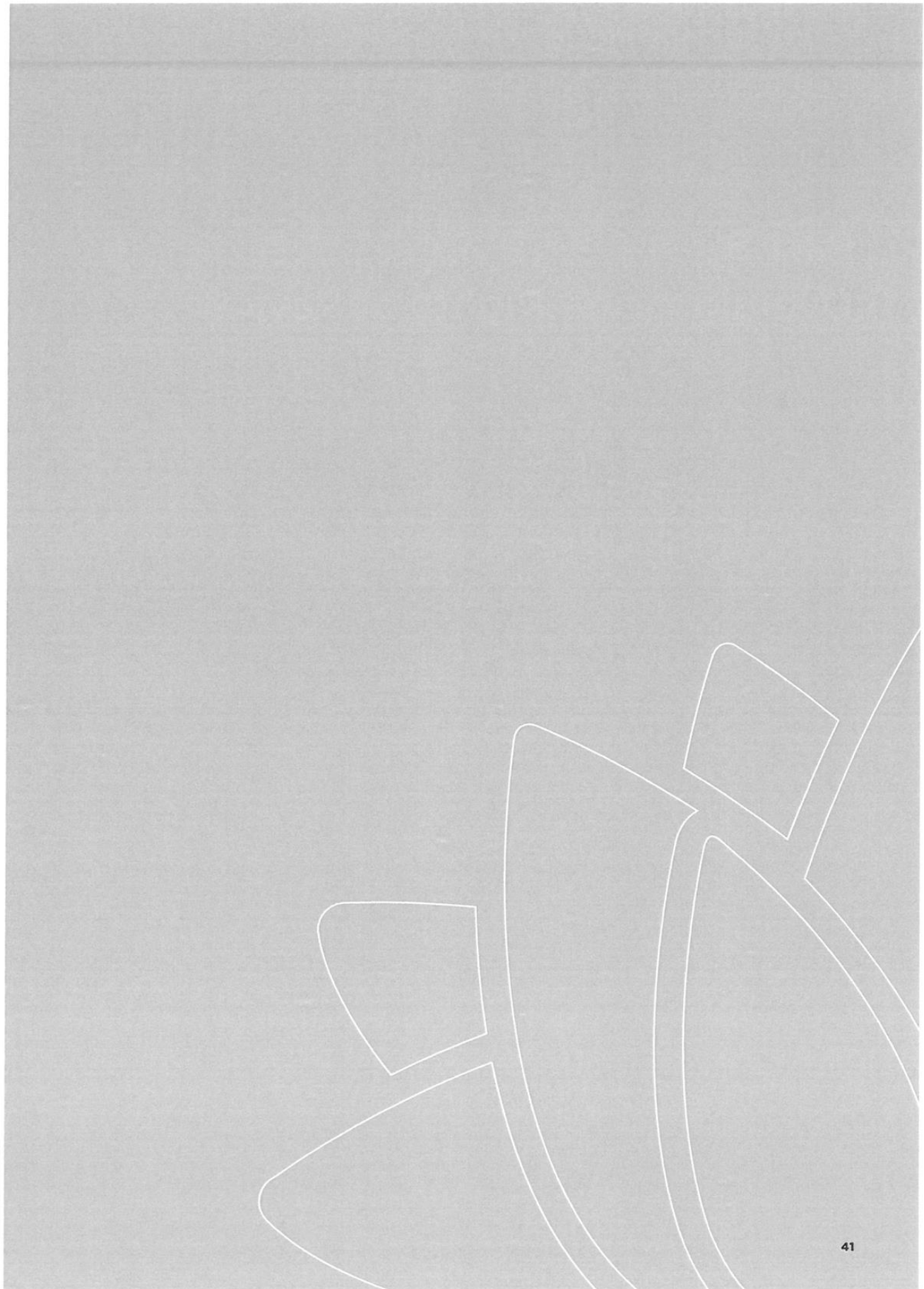
- 7.47 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)).
- 7.48 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.49 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.50 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation/s.
- 7.51 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.
- 7.52 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 7.53 Prior to imposing a sanction, the council may by resolution:
- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
  - b) seek an opinion from the Office in relation to the report.
- 7.54 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.55 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.56 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.
- 7.57 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.58 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.59 A council may by resolution impose one or more of the following sanctions on a respondent:



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| <ul style="list-style-type: none"> <li>a) that the respondent undertake any training or other education relevant to the conduct giving rise to the breach</li> <li>b) that the respondent be counselled for their conduct</li> <li>c) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative</li> <li>d) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the resolution</li> <li>e) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the resolution</li> <li>f) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the meeting</li> <li>g) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach</li> <li>h) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA</li> <li>i) in the case of a breach by a councillor:             <ul style="list-style-type: none"> <li>i) that the councillor be formally censured for the breach under section 440G of the LGA, and</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.</li> </ul> <p>7.60 The council is not obliged to adopt the investigator's recommendation/s. Where the council proposes not to adopt one or more of the investigator's recommendation/s, the council must resolve not to adopt the recommendation/s and state in its resolution the reasons for its decision.</p> <p>7.61 Where the council proposes to impose a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator in their final report, the council must state in its resolution the reasons for its decision.</p> <p>7.62 Where the council resolves not to adopt the investigator's recommendation/s or imposes a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator, the complaints coordinator must notify the Office of the council's decision and the reasons for it.</p> |
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## **Part 8:**

# **Oversight and Rights of Review**



## The Office's powers of review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.
- 8.2 The Office may direct any person, including the council, to defer taking further action in relation to a matter under consideration under the council's code of conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the complaints coordinator and any other affected persons, of the outcome of the review.

## Complaints about conduct reviewers

- 8.4 The general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

## Practice rulings

- 8.7 Where a respondent and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.9 Where the Office makes a practice ruling, all parties must comply with it.
- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

## Review of decisions to impose sanctions

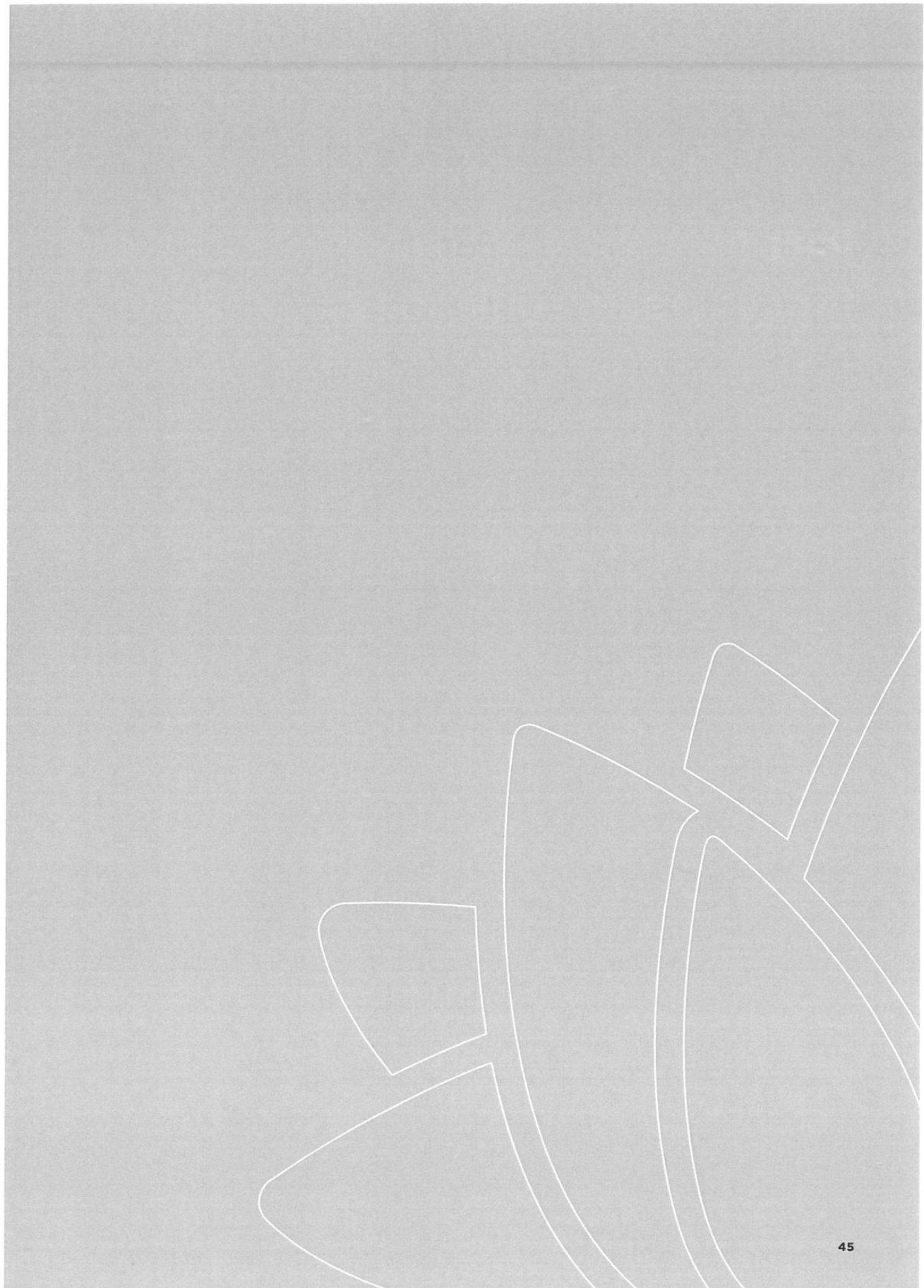
- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.59, paragraph (i), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.12 A review under clause 8.11 may be sought on the following grounds:
  - a) that the investigator has failed to comply with a requirement under these procedures, or
  - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or



Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW

- c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed.
- 8.20 In the case of a sanction implemented by the general manager or mayor under clause 7.45, where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must provide a copy of the Office's determination in relation to the matter to the general manager or the mayor, and
  - b) the general manager or mayor must review any action taken by them to implement the sanction, and
  - c) the general manager or mayor must consider the Office's recommendation in doing so.
- 8.21 In the case of a sanction imposed by the council by resolution under clause 7.59, where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
  - b) the council must:
    - i) review its decision to impose the sanction, and
    - ii) consider the Office's recommendation in doing so, and
    - iii) resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 8.22 Where, having reviewed its previous decision in relation to a matter under clause 8.21, the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.







## **Part 9:**

# **Procedural Irregularities**



Procedural Irregularities

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- a) the non-compliance is isolated and/or minor in nature, or
  - b) reasonable steps are taken to correct the non-compliance, or
  - c) reasonable steps are taken to address the consequences of the non-compliance.



## **Part 10:**

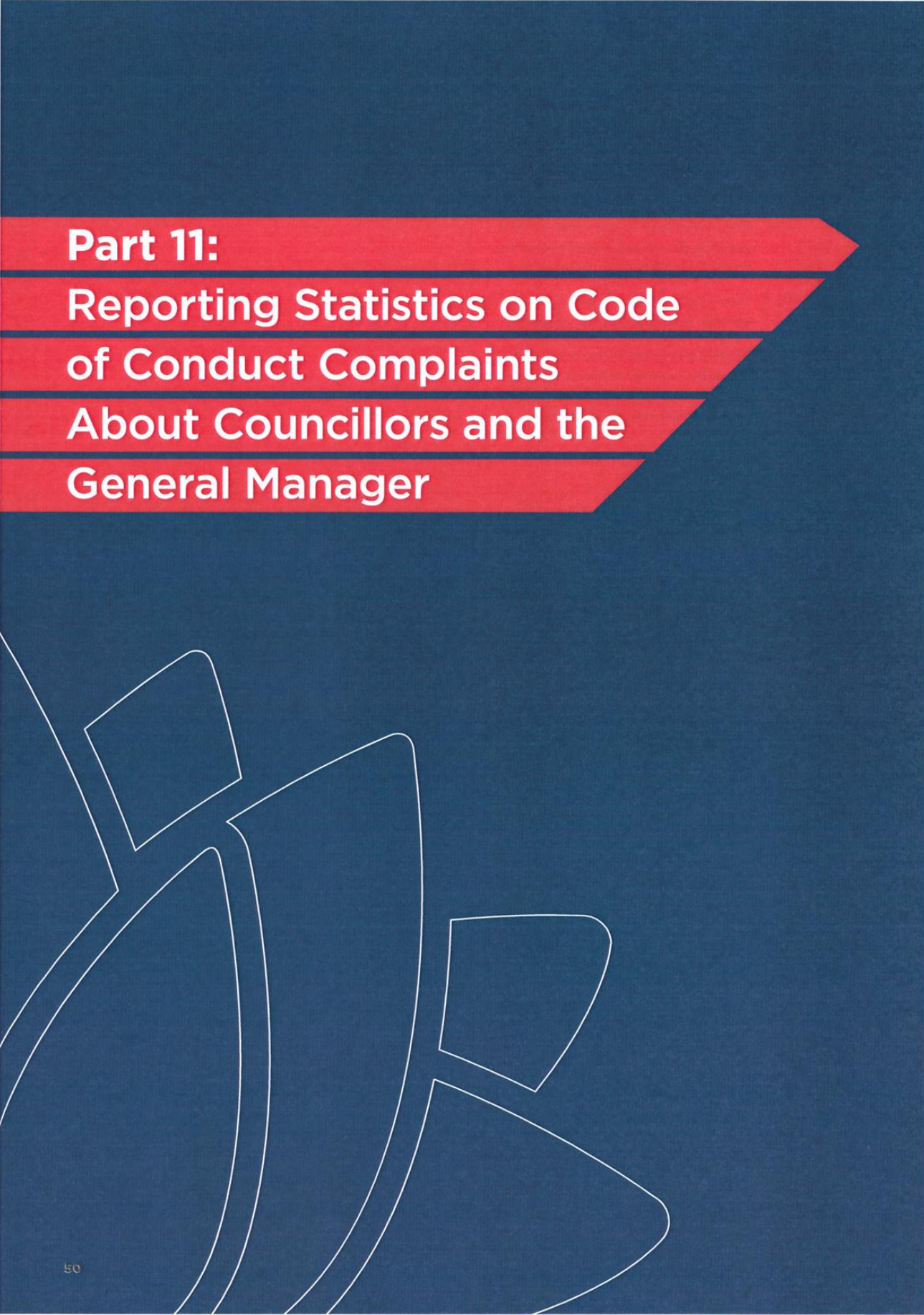
## **Practice Directions**



Practice Directions

- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.





## **Part 11:**

# **Reporting Statistics on Code of Conduct Complaints About Councillors and the General Manager**



**Reporting Statistics on Code of Conduct Complaints About Councillors and the General Manager**

- 11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
  - b) the number of code of conduct complaints referred to a conduct reviewer during the reporting period
  - c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
  - d) the number of code of conduct complaints investigated by a conduct reviewer during the reporting period
  - e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
  - f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
  - g) the total cost of dealing with code of conduct complaints made about councillors and the general manager during the reporting period, including staff costs.
- 11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.



## **Part 12:**

## **Confidentiality**



- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within at least 14 days or such other period specified by the general manager or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant
  - b) the complaints coordinator
  - c) the Office, and
  - d) any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.







**Comparison between current and new versions of the Model Code of Conduct**

<b>Part</b>	<b>Existing Code</b>	<b>New Code</b>
<b>General Conduct</b>	Contained broad “principles-based” rules governing general conduct (but prescriptive rules governing binding caucus votes which have been retained in the new Code)	Shift from broad principles- based approach to prescription of standards of general conduct to more prescriptive approach. New, clearer rules governing: <ul style="list-style-type: none"> <li>• harassment and discrimination</li> <li>• bullying</li> <li>• work health and safety</li> <li>• land use planning, development assessment and other regulatory functions</li> <li>• behavioural standards in meetings</li> </ul>
<b>Pecuniary interests</b>	Standards relating to the disclosure of pecuniary interests and the management of pecuniary conflicts of interest were prescribed under the Local Government Act (LGA) and Regulation.	Yet to commence 2016 amendments to the LGA have seen the prescription of these rules moved to the Model Code of Conduct so that all ethical standards are now prescribed from the same source. The provisions now contained in the Model Code are largely the same as those that were previously contained in the LGA and Regulation. Key changes include: <ul style="list-style-type: none"> <li>• council officials will now be obliged to update their publicly accessible returns of interests within 3 months of becoming aware of new interests (previously new returns only had to be submitted annually)</li> <li>• councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of one</li> </ul>
<b>Non-pecuniary conflicts of interest</b>	Contains broad principles based rules governing disclosure and management of non-pecuniary conflicts of interests	As with the general conduct provisions, these rules have been rewritten to make them more prescriptive. The Model Code still distinguishes between “significant non-



		pecuniary conflicts of interest” (council officials must have no involvement in matters in which they have a significant non-pecuniary conflict of interest) and “less than significant non-pecuniary conflicts of interest” (council officials must disclose these but may still participate in decision making). However, the rules governing what constitutes a significant non-pecuniary conflict of interest have been made more prescriptive and much clearer.
<b>Gifts and benefits</b>	Contained a mixture of broad principles and strict rules governing when it is not appropriate to accept gifts or personal benefits. Gifts of more than token value must not be accepted but does not place a monetary value on these. There is no requirement to report the acceptance of a gift, unless it is of more than token value.	Rules governing gifts and benefits are now much more prescriptive: <ul style="list-style-type: none"> <li>• There is a clearer definition of what is a gift or benefit</li> <li>• There is a monetary value of \$50 placed on gifts of more than token value</li> <li>• There is a prohibition on the acceptance of multiple gifts of under \$50 from the same person over a 12 month period where their aggregated value exceeds \$50</li> <li>• The rules extend to gifts received by persons personally associated with the council official</li> <li>• All gifts must be reported regardless of value</li> </ul>
<b>Relationships between council officials</b>	Contains prescriptive rules governing relationships and interactions between councillors and staff	These are largely unchanged but have been updated to reflect the new roles of mayor, councillors and general managers legislated in the 2016 amendments to the LGA
<b>Access to information and council resources</b>	Contains prescriptive rules governing access to information, use of council resources and information technology	These are largely unchanged but have been supplemented with new rules: <ul style="list-style-type: none"> <li>• Councillors are precluded from requesting information about matters they have a conflict of interest in unless the information is otherwise</li> </ul>



		<p>publicly available</p> <ul style="list-style-type: none"> <li>• There are new rules governing the use of social media – this should not be used for engaging in offensive, humiliating or threatening behaviour, making misleading or deceptive claims, breaching privacy or disclosing confidential information</li> <li>• There are new rules governing council record keeping which in effect, embed the requirements of the State Records Act into the Mode Code</li> </ul>
<b>Maintenance of the integrity of the code of conduct</b>	Contains rules relating to the misuse of the code, taking reprisal action, disclosing confidential information about code of conduct investigations etc	The language in these has been slightly modified to address issues arising from previous OLG investigations and NCAT matters



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## General Manager - 21 February 2019

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**ITEM 13.3**                      **2020 Local Government Elections**

**FILE REFERENCE**    **I19/7**

**AUTHOR**                      **General Manager**

### **ISSUE**

Providing details regarding the administration of the 2020 Local Government Elections.

**RECOMMENDATION**      That -

1. Upper Lachlan Shire Council ('the Council') resolves:
  - a. Pursuant to s.296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of Council.
  - b. Pursuant to s.296(2) and (3) of the Act, as applied and modified by s.18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
  - c. Pursuant to s.296(2) and (3) of the Act, as applied and modified by s.18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

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### **BACKGROUND**

Since 2012, Councils in NSW have been able to choose whether to conduct their own elections, or to enter into arrangements with the NSW Electoral Commission.

### **REPORT**

Under section 296AA of the Local Government Act (the Act), Councils must make a decision on how their September 2020 Ordinary Elections are to be administered no later than 11 March 2019.

By 11 March 2019, each Council in NSW must resolve whether its General Manager will administer its 2020 Local Government Election, or if it will arrange for the NSW Electoral Commission to do so.

Historically, the vast majority of NSW Councils have continued to have their elections conducted by the NSW Electoral Commission.

Each Council is required to pass a resolution outlining its choice at least 18 months before the next Ordinary Election of Councils.



## **General Manager**

### **2020 LOCAL GOVERNMENT ELECTIONS cont'd**

If a Council is proposing to engage the NSWEC to administer its elections, it should resolve to do so as soon as possible and notify the NSWEC, accordingly. The service schedule and costs schedule of the NSWEC standardised contract will vary between Councils and are made by the NSWEC in consultation with each Council.

Where a Council resolves to engage the NSWEC to administer its elections, polls and referenda, the election arrangement with the NSWEC will apply to the 2020 Ordinary Election and every election, poll and referendum including any by-election or countback election until the contract is automatically terminated 18 months before the following ordinary election of Councillors.

Where Councils have resolved to enter into an election arrangement with the NSWEC, the contract with the NSWEC must be finalised not later than 15 months before the next Ordinary Elections (i.e. by 11 June 2019).

If a Council fails to resolve to engage the NSWEC to administer its elections by 11 March 2019, it will be required to administer its own elections. A Council that fails to make a decision on the administration of its elections by 11 March 2019 will also be required to publish a notice of that failure on the Council's website.

Each Council must resolve to either:

1. Enter into an election arrangement with the NSE Electoral Commissioner (NSWEC) to administer all the Council's elections, polls, and constitutional referenda or
2. Determine that the Council's elections are to be administered by the General Manager of the Council.

Key dates include:

- Tuesday 12 March 2019 – Council must resolve by this date whether to enter into an arrangement with the NSW Electoral Commissioner to administer the elections of the Council, or whether the elections of the Council will be administered by the General Manager of the Council.
- Wednesday 12 June 2019 – if Council resolves to enter into an arrangement with the NSW Electoral Commissioner, it must enter into the arrangement by this date.
- Saturday 12 September 2020 – 2020 Local Government Elections in NSW.

Further, there have been some recent amendments to the election provisions of the Local Government (General) Regulation 2005. Office of Local Government Circular no. 18/47 of 19 December 2018 provides further details and is attached for Councillors information.

## **POLICY IMPACT**

Nil

## **OPTIONS**

1. Council can choose to conduct their own elections; or
2. Council can enter into arrangements with the NSW Electoral Commission.



## **FINANCIAL IMPACT OF RECOMMENDATIONS**

Elections allocation is provided for in 2019/2020 Annual Budget.

### **RECOMMENDATION**      That -

1. Upper Lachlan Shire Council ('the Council') resolves:
  - a. Pursuant to s.296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of Council.
  - b. Pursuant to s.296(2) and (3) of the Act, as applied and modified by s.18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
  - c. Pursuant to s.296(2) and (3) of the Act, as applied and modified by s.18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

### **ATTACHMENTS**

1. <a href="#">↓</a>	Office of Local Government - Circular 18-47 - Amendments to the Election provisions of the Local Government (General) Regulation 2005	Attachment
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Office of  
Local Government

## Circular to Councils

<b>Circular Details</b>	Circular No 18-47 / 19 December 2018 / A632441
<b>Previous Circular</b>	18-43 Council decisions on the administration of the September 2020 elections
<b>Who should read this</b>	Councillors / General Managers / Council governance staff
<b>Contact</b>	Council Governance Team / 02 4428 4100 / <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
<b>Action required</b>	Information

### Amendments to the election provisions of the Local Government (General) Regulation 2005

#### What's new or changing

- Amendments have been made to the *Local Government (General) Regulation 2005* (the Regulation) to:
  - give effect to the Government's response to the recommendations of the Joint Standing Committee on Electoral Matters (JSCEM) in relation to preference counting in local government elections by:
    - introducing the weighted inclusive Gregory method of preference allocation with respect to council elections using the proportional voting system (recommendations 1 and 2)
    - removing the cap of four digits for a decimal fraction when calculating transfer values (recommendation 10) and
    - removing the option for candidates to pay for a recount (recommendation 8)
  - give effect to the 2014 amendments to the *Local Government Act 1993* that gave councils the option of holding a countback election to fill casual vacancies in the first 18 months of their terms instead of holding a costly by-election and prescribe the administrative requirements for countback elections
  - prescribe the administrative requirements for universal postal voting elections (currently, only the City of Sydney has the option of holding elections exclusively by postal voting because of its high number of non-residential electors who, unlike other council elections, are required to vote at council elections)
  - update other provisions of the Regulation to align with contemporary electoral practice as prescribed with respect to State elections under the *Electoral Act 2017* and to make a number of other amendments that are consequential to that Act and the *Electoral Funding Act 2018*
  - make other minor changes to improve the efficiency of the administration of council elections.

#### What this will mean for your council

- The amendments make the counting of votes at council elections fairer and more accurate and transparent by removing the random sampling method of preference allocation and replacing it with a fractional transfer system known as the weighted inclusive Gregory method. In a fractional transfer system, all ballot papers of the elected candidate are used to distribute the surplus. The ballot papers are distributed at a reduced rate by applying a transfer value.
- The new counting rules take effect on 11 September 2020, immediately before the next ordinary council elections.



- The prescription of the weighted inclusive Gregory method and the removal of the cap of four digits for a decimal fraction when calculating transfer values mean that it will no longer be possible to use manual counts for council elections.
- The prescription of the weighted inclusive Gregory method also means that the count will now be reproducible on a recount making countback elections possible.
- Following the September 2020 ordinary council elections, councils will be able to fill casual vacancies in civic office that arise in the first 18 months following the election by a countback election, saving councils the cost of a by-election. In the last 18 months of councils' terms, they retain the option of applying to the Minister for Local Government to dispense with a by-election.
- Countback elections are not available for elections using the optional preferential voting system (including the election of a popularly elected mayor).
- To exercise the option of filling casual vacancies in the first 18 months using a countback election, councils must resolve at their first meeting following the ordinary election to fill vacancies using countback elections. OLG will provide further guidance on this closer to the relevant time.

#### Key points

- A number of other amendments have been made to align the electoral provisions of the Regulation with the *Electoral Act 2017* thereby reflecting the more contemporary electoral practices that apply at State elections. Key amendments include:
  - allowing the election manager to appoint centralised ballot counting centres to improve the efficiency of the administration of elections and reduce costs
  - allowing polling places for multiple wards or areas (thereby allowing, for example, voting in the Sydney CBD for other council areas). This is in addition to the existing requirement for polling places in each area and ward.
  - removing the requirement for the returning officer's office to be a polling place (reflecting the fact that these are also used to warehouse electoral materials and are often located in industrial areas)
  - allowing the early opening of postal ballot envelopes in the presence of scrutineers (but not early counting) so as to speed up the count on election night (this is consistent with the practice at State elections)
  - allowing candidates' nominations and the payment of deposits to be made electronically
  - allowing the election manager to provide candidates' statistical information sheets directly to OLG (rather than via councils' general managers) to improve the efficiency and speed of OLG's post-election research used to inform its strategies to promote greater diversity in candidates standing at the next council elections.

#### Where to go for further information

- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).



**Tim Hurst**  
Chief Executive

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## **15        REPORTS FROM OTHER COMMITTEES, SECTION 355 COMMITTEES AND DELEGATES**

The following item is submitted for consideration -

15.1	Reports for the month of February 2019	506
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## Reports from Other Committees, Section 355 Committees and Delegates - 21 February 2019

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### ITEM 15.1

### Reports for the month of February 2019

#### RECOMMENDATION:

That Item 15.1 - [Minutes of Committee/Information] listed below be received:

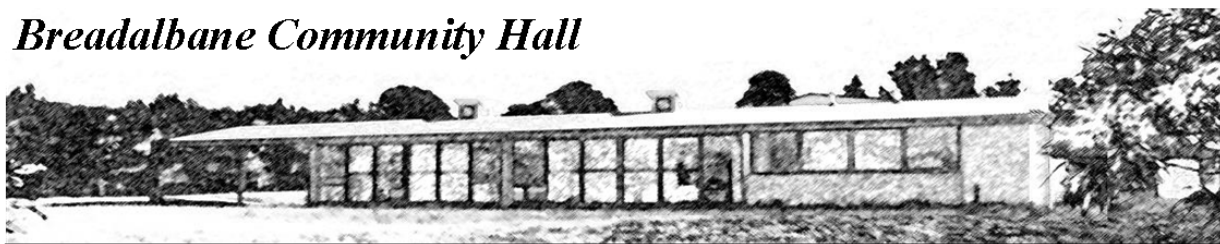
1. Breadalbane Hall Committee – Minutes from Annual General Meeting and Meeting held 18 November 2018.
2. Collector Village Pumpkin Festival – Minutes from meeting held 10 December 2018.
3. Economic Development Task Force – Minutes from meeting held 3 December 2018.
4. Economic Development Task Force – Minutes from meeting held 5 February 2019.
5. Tony Foley Memorial Community Centre Committee – Minutes from Annual General Meeting held 1 November 2018.
6. Tony Foley Memorial Community Centre Committee – Minutes from Meeting held 1 November 2018.

#### ATTACHMENTS

1. <a href="#">↓</a>	Breadalbane Hall AGM and General meeting MINUTES 18th November, 2018.pdf	Attachment
2. <a href="#">↓</a>	Collector Village Pumpkin Festival - Minutes from meeting held 10 December 2018	Attachment
3. <a href="#">↓</a>	Economic Development Task Force - Minutes from meeting held 3 December 2018	Attachment
4. <a href="#">↓</a>	Economic Development Task Force - Minutes from meeting held 5 February 2019	Attachment
5. <a href="#">↓</a>	Tony Foley Memorial Community Centre S355 Committee - Annual General Meeting ( AGM ) - 1 November 2018	Attachment
6. <a href="#">↓</a>	Tony Foley Memorial Community Centre S355 Committee - Meeting Minutes - 1 November 2018	Attachment



## *Breadalbane Community Hall*



*Chisholm Park, Collector Road, Breadalbane NSW 2581*

### **Breadalbane Hall Annual General Meeting**

Sunday 18<sup>th</sup> November 2018, commenced 4.00pm

#### **Minutes**

1. **Attendance:** Sally McLean, Christine McLean, Marion Schumacher, Ingrid Schumacher, Libby Webster, John Searle, Sylvie Hayles, Vanessa Edwards, Rod Edwards, Sue Morrison, Tony Morrison, Angelica Baker, Gayle White

**Apologies:** ULSC Mayor Brian McCormack, Sarah Kilby, Jenny Bell

2. **Minutes** from 26<sup>th</sup> August 2018 general meeting received and endorsed unanimously  
**Minutes** from 2017 AGM received and endorsed unanimously

3. **Treasurer's Report**

IMB Everyday Cheque Account no. ....1579

Opening balance 30 June 2018 \$7,096.57    Opening balance 10 Nov 2018 \$9,039.23

Net income received from Women's Health Lunch \$1,065.00, Kangaroo March Book Launch \$462.60,  
Australian Garden History Society \$1,560.54,

Hall Investment Account .....8492

Opening Balance 30<sup>th</sup> June 2018 \$21,108.74    Opening Balance 10<sup>th</sup> November 2018 \$21,327.91

Funds received by ULSCC on Hall's behalf:

Veolia Grant for patio slab \$7,855.00

NSW Government SCC grant \$67,000.00

4. **Correspondence**

- 15.6.18 - Veolia notification that our grant For Patio Slab was successful - \$7, 855.00 Note: Funds received by ULSCC on Hall's behalf.
- 15.10.18 – ULSCC notification that NSW Government SCC grant was successful - \$67, 000.00 Funds to be received by ULSCC on Hall's behalf.
- Thank you letters received from Kangaroo March book launch organiser Angela Williamson, and from Australian Garden History Society tour guide Trish Dixon.

5. **Nomination and election of office bearers for 2019**

- Chairman / Secretary – Sally McLean    Nom. S Morrison, seconded L Webster
- Deputy Chairman – Marion Schumacher    Nom S McLean, seconded C McLean

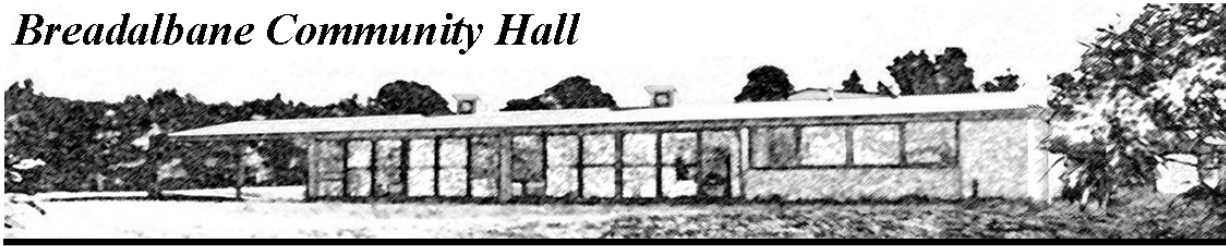
2018 Chairman: Sally McLean p: 02 4844 2211

2018 Treasurer: Christine McLean p: 02 4845 1323

2018 Hall Manager: Vanessa Edwards p: 02 4844 2285



## *Breadalbane Community Hall*



*Chisholm Park, Collector Road, Breadalbane NSW 2581*

- Secretary – Gayle White Nom. S. Morrison, seconded T. Morrison
- Treasurer – Christine McLean Nom. S. McLean, seconded M. Schumacher
- Hall Manager – Vanessa Edwards Nom. L. Webster, seconded S. McLean
- Committee Members – John Searle (ULSC representative), Ingrid Schumacher, Libby Webster, Sue Morrison, Tony Morrison, Sylvie Hayles, Rod Edwards, Angelica Baker

### **6. General Business**

- Pergola Progress** - The first stage of moving the grease trap and changing the water line to the toilets from the bore to the RFS's water tank is now completed. An application was submitted to council two weeks ago for the pergola construction certificate permit and now waiting response from Brian Smithers. Concreter requires two weeks' notice and can lay in one week, once Construction Certificate is issued by Council. Australian Carpentry is completing the construction work. Sally will be the Project Manager in conjunction with Council Building Inspector, Brian Smithers. Sally will be having further discussions with Brian Smithers regarding this.
- Dishwasher** - It was suggested that we require a commercial dishwasher, for our own efficiencies at community functions, and to increase the Hall's benefits to potential hire opportunities. \$5,000 – Commercial Dishwasher (approx.), requires a \$7,000 – Budget, which includes delivery and installation (approx.) External funding was suggested and it was proposed that we seek an appropriate grant to cover costs.
- Water supply** to the toilets has been changed to RFS's water tank.
- Fundraising Opportunities** –
  - There is a possibility of Gunning Group requiring the Hall for a High Tea for 60 people in early 2019. Vanessa and Christine will co-ordinate via Facebook.
  - Bunnings BBQ – Gayle will contact Bunnings activity Organiser regarding an available date around Easter. Gayle indicated the Bunnings BBQ option is a good fundraiser, but requires assistance all Hall supporters to man the stall for the full day as per Bunnings' rules.
  - Libby suggested organising a Wood raffle fundraiser for 2019. Tony will look at sourcing a log splitter either from both private and also asking Kennards if they could assist.
- Bush Bash Saturday 23<sup>rd</sup> February 2019**– Bush Dancing – Fund Raiser. Tony is going to approach a couple who may provide their band free of charge, particularly looking for a band that can 'call' the dances as in Barn Dance style.

Plans to have hay bales and gum tree branches around, with dinner in the Hall and dancing in the fire shed or on the slab (if completed in time?!). Sally to approach Frank Hannan for consent to use the RFS shed. Menu – BBQ, Burgers & Slices

Rod raised safety issues for children due to road access from RFS – plan to put warning signs out on the road approaches.

Special Meeting to organise Bush Bash on 20<sup>th</sup> January 2019

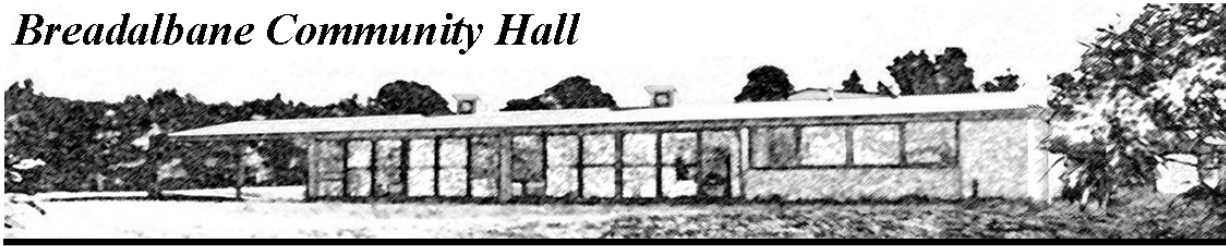
2018 Chairman: Sally McLean p: 02 4844 2211

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## *Breadalbane Community Hall*



*Chisholm Park, Collector Road, Breadalbane NSW 2581*

- f. Additional Names for Memorial Plaque – two more people have contacted Sally regarding relatives who need to be added, due the advertisement placed by Marion.
- g. Community Carols & Christmas Party – Sunday 16<sup>th</sup> December 2018 in conjunction with St Silas Church Group who will be commencing Carols in the church at 5pm, followed by dinner in the hall and Santa. Bring a plate to share and BYO beverages. Marion to redesign flyer for a letterbox drop. Tony will be Santa Claus. Raffle Prize will be a Christmas Hamper and people can drop off items for the Hamper to the Hall. Libby to supply the basket to be used for the Hamper. Christine will investigate people for Face Painting or Balloon Creations for the children. Hall to provide sausages and bread for a BBQ. Gayle to buy 60 sausages and bread.
- h. John Searle asked if we would be holding an Anzac Day Ceremony again in 2019 and it was unanimously agreed that we would, keeping to the same format as this year.
- i. John Searle raised the issue of the ULSC 2019 / 2020 Draft Operational Plan open for submissions, closing date is 3<sup>rd</sup> December. Suggestions for the submission included an Occupational Health & Safety issue of two sensor lights over toilet doors and front door, a Community Notice Board and modifying the front sliding door to provide disabled access under the Disability Discrimination Access Act. We had not received any notification regarding this grant so Sally volunteered to put in a submission before the closing date.
- j. Christine asked John Searle for an update of the Council's Street Scape Plan. John advised that Council will be commencing work on the smallest communities first, following the recommendations in the report provided and community feedback.
- k. The issue of the hall not having any garbage collection was raised as we had to dispose of all rubbish ourselves privately. John advised he would take up the matter at ULSC, enquiring if the Hall was entitled to a Red bin and Yellow bin collection with no charges.
- l. Breadalbane Railway Sign – Rod discussed the work involved to restore the old sign being donated by Rob Bell, and it was suggested that we apply for a Heritage grant. John Searle agreed to check with Transport NSW. To be discussed further at a later date.

There being no other business the meeting closed at 6pm.

Next Meeting 20<sup>th</sup> January 2019

2018 Chairman: Sally McLean p: 02 4844 2211

2018 Treasurer: Christine McLean p: 02 4845 1323

2018 Hall Manager: Vanessa Edwards p: 02 4844 2285





## Minutes of the Collector Village Pumpkin Festival General Meeting 10 December 2018

### **Present:**

Gary Poile (Chair/President)  
Kate Drain (Secretary/Minutes)  
Penelope Marishall  
Felicity Poile  
John Searle  
Sally and Graeme Pietsch  
Tony Hyams  
Terry Lovelock  
Tracy and Brett Byron  
Gemma Spriglett  
Michael Duck

Meeting opened 7:15pm

### **Apologies noted:**

Ian Marishall  
Linda Wilson  
Ken King

### **Matters arising from the minutes of the previous meeting:**

The chair asked if there were any issues arising from the minutes of the previous meeting held 12 November 2018.

Ian Marishall was present at the meeting, but this was not noted in the minutes Kate Drain to correct and to put Ian's name on the minutes of last meeting.

Minutes moved, seconded by Terry Lovelock, All in favour - passed

### **Treasurer's report:**

Kate Drain went through the figures for the treasurer's report in Linda Wilson's absence.

Bank balances reported were:



Cash Reserve (savings) Op Bal 31/10 - \$40,423.99 Closing Bal 30/11 - \$40,438.60 Everyday Account Op Bal 31/10 - \$57,268.38 Expenditure was bank Fees and Tourism awards Closing Bal 3/12 - \$55,378.96

Gary Poile has the cheque book to pay donations to the various groups requiring funds.

Saturday's carol services – donation towards toilets – CVPF will make a donation towards toilets (will pay the Kennards hire invoice directly)

Treasurer's report was moved by Felicity Poile, seconded Brett Byron

Passed

**Correspondence in:**

Letter from council received requesting copies of the minutes.

Action: Kate to send minutes to council going forward.

Nomination for Event of the year – letter received for mayoral function on Dec 20. Gemma Spriglett, Felicity Poile and Gary Poile to attend the function.

Correspondence – wrap up from the tourism awards received. We didn't receive any awards but good networking. Opportunity, only entirely voluntary run committee. Constructive feedback, acknowledged that we had a good festival but didn't write from the point of view of the visitor experience. Judged as a tourism event, we sold it as a community event and didn't get enough points in places required. Need to back up claims further and show evidence of surveys. Good application writer for next year should be investigated.

Penelope happy to put survey together if required/analysis. Cr Searle suggested video interview, capturing testimonials at the event and asking people where they are from – use as promo material for next year.

May be worthwhile entering a people's choice award for next year.

**Traffic management plan – draft proposal:**

Gary has done a traffic management plan and distributed this to the committee members in hard copy at the meeting.

Main concern is to get the traffic off the highway. The plan includes additional car parking near Gary's place and oval and Jeanette Sheridan's paddock as overflow parking. Disabled parking has been relocated to the oval. The proposal is in draft format and is open to feedback.

Close roads from Lorne St – Murray St. Need to have people on the ground with radios directing traffic into Jeanette's paddock.

Train for Floriade suggested.

Gary will email the proposal with the risk assessments to council and will forward a copy for the minutes.

**Art Project:**

50% of canvasses are out



Dance preparations are going well

Will start in new year with rehearsals – will simplify the dance

Letters to clubs – outstanding Gary to follow up – Kate to assist

**Quotes:**

Petting zoo – cannot get here earlier than 9am. \$1880 – 6 hours inc GST – 3 x people on hand, good set up required shade. Tracey has sent photos of area, need ute and trailer close access to site setup.

Bring in through back of cemetery

Mechanical Bull riding - \$500 up to 4 hours then \$100 every hour thereafter

Pony rides – 8 x ponies only 6 working \$1000 or add more ponies \$1200 8 x ponies. Tracey has asked if horses can be provided to people with disabilities – yes.

Rock climbing wall – 6 hours x \$2560 9am bump in

Move motion to approve expenditure – Penelope

Moved, seconded Tracey - all in favour

Jumping castle - \$550 – move amended motion to include jumping castle and cow milking

\$1000 – Cow milking

Face painting -

Cow milking - to be investigated – Gemma will follow up requirements, WWCC, shade, power etc.

Dogs locked in at no cost.

Pig races suggested

Dishwasher – gas hot water

Discussed at Saturday night meeting – Red Cross and CWA, no one opposed. Need more mugs and trays. Water a concern, need someone in the kitchen directing operations. Supportive of keeping the other room in the hall free for pumpkin scones etc. Tea and coffee sales for Hall committee – up to the Hall committee to work out. Tent at the end of hall for judging of cakes, scones etc – close up for judging. The dishwasher is an option for the hall committee to resolve. Sustainability a key concern. Recycle bins have been ordered by Tracey.

Penelope has spoken to Jeanette about utilising the hall and exhibition being moved, Jeanette has noted this.

Market Day – all went well

Footpath – Terry and Gary met with Asif -getting close to requirements, he has done an inspection. Full action before Festival to have it all up and operational for May

Marquee's – Michael has access to 2 x marquee's in town

Musical duo from the coast – verbally confirmed but Gary to ask for a quote



Billy D Piano and Craig Knox band official – contacted via email – no samples available

Bungendore have a music muster with a day focussed on busking.

Tim re: comedy acts – Michael will follow up.

Gary has reworked the site plan – move the stage

Felicity and Tracey to look at the site plan to see where the ponies can fit in with the dogs and cows.

Gary to look at power sites options and let Tracey know. Bushranger reserve has planted trees where stallholder parking previously was – move stallholder parking to the gate into the next part of bushranger reserve.

Logistical question re: garbage truck, is it possible to put him where the tent was last year next to the hall. Needs to stay until 4pm. Brett can call to discuss options and ask about recycling after Christmas. Plans to open access lane behind Hall, church and Gemma's house as service way – could be a better access route for garbage truck.

Launch for stall holders – we need to open in Jan and lock in a map – anyone with concerns. Bigger opening for access. Sustainability clause into stallholder agreements, no plastic bags, straws, plates etc. EPA guide on sustainable waste – Tracy and Kate to review. Water stations for dogs.

ACT water refill stations – suggestion. Need portable water. John to raise at council level to flag that the committee is enacting a sustainability plan.

Penelope raised concerns about police presence – will they be in town? Part of the DA process, fire, SES, police. TBA – Windellema guys first aid. First aid tent – meeting point for missing people. Advertise on social media – put a family plan in place.

Human whack a mole – blow up mallet

#### **General Business:**

Formal vote of thanks for Christine Lovelock, motion – account be paid for out of pocket expenses Felicity, seconded Christine - carried.

Thanks – Kate for putting in the event of the year nomination

John Searle – nothing to report from council/tourism point of view

Potato festival – Terry Lovelock questioned receipt \$16k from council? If CVPF were to submit another tourism award, would council support?

Penelope moved a motion that we formally invite Andrew Warren – ULSC Tourism Manager, to next Pumpkin Festival Meeting to further the possibility of promotion and potential support of the CVPF.

Moved: Penelope Seconded: Gemma Bartlett, carried

Invite Tourism Manager to meeting: Action – Kate

Eventbrite have been chasing Tracey. The committee agreed they are prepared to go with Eventbrite, online ticketing.

Surcharge payment payable to Eventbrite, advertise express lanes

Move motion to engage Eventbrite as online ticketing provider



Moved: Tracy Byron, Seconded Gemma Spriglett

Carried

Piano for the hall? Could possibly get a pianist from Goulburn but would have to pay them and pay for the tuning (\$400 roughly). Work on music??? To think about further.

Fb event stats – 4.7k interested in attending, 276 going and 78 shared, great uptake from one image posting. Great uptake so far.

Main items to complete:

Settle map and stallholders open for business

Action: Gary – talk to Pat Drummond, stage will be different, won't be having guest artists – own entertainment, comedy, poets etc.

Payments out to the promised organisations

What do we need to plan – can committee members please think about for next meeting so we can break off into small groups.

Gary to approach Jeanette re competitions

Competitions to be advertised

Uniting Church have agreed to the art exhibition being held in their church. Gemma to make contact to discuss plans.

Penelope offered to curate photographic exhibition – would need to be hosted in the tent/hall. To be discussed.

**Next meeting – 14 January, 7pm**

Meeting closed 9:00pm



## **MINUTES OF THE UPPER LACHLAN SHIRE COUNCIL EDTF COMMITTEE HELD TUESDAY 3 DECEMBER 2018 AT CROOKWELL**

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**Present:** Clr. John Searl, Andrew Lindner, Clr. Richard Opie, Catherine Duff, Susan Reynolds & Doug McIntyre.

**Staff:** Brenda Proudman (Economic Development Officer)  
(Non Voting)

**Apologies:** Clr, John Stafford, Tina Dodson (Director of Environment & Planning) & John Bell (General Manager)

Meeting commenced at 8.50am.

**Declaration of Interest:** Nil.

### **Confirmation of Minutes:**

#### **Agenda Item 3.1**

Minutes from the 13 November 2018 were adopted as a true and correct record.

Moved – Clr John Searl & seconded by Andrew Lindner.

CARRIED

**Correspondence:** Nil.

#### **Agenda Item 4.1 – Economic Development Revitalisation & Action Plan**

All of the committee were happy with the draft report, no changes to be made. Peter Mclean (Consultant) from Development Impacts Pty Ltd has offered to contact the 5 groups from the Workshop to see where they are up to. Brenda is to contact Peter Mclean to approve the draft version of the workshop and ask Peter to contact Clr Richard Opie about distributing the final document to the Workshop members. Moved - Clr Richard Opie and seconded by Catherine Duff that Brenda sends the final plan to Council for inclusion in the December meetings Business Papers.

CARRIED

#### **Agenda Item 5.1 – General Business**

Brenda is to organise Simon Wallace-Pannell to attend our next EDTF meeting to talk about the Sustainable Councils and Communities Program. Date and time to be confirmed.

#### **Agenda Item 5.2 – General Business**

Susan Reynold is to be appointed to the EDTF committee. Moved – Andrew Lindner & seconded by Clr Richard Opie.

CARRIED

**Agenda Item 6 – Guest Speaker – Susan Reynolds** See attached information about Crookwell Green Innovation Technology Hub.

The EDTF Committee would like to wish all the Shire's residents and businesses a very Merry Christmas and a Prosperous New Year!

**Next Meeting** of the EDTF Committee – Tuesday 5<sup>th</sup> Feb 2019 – 9am in the ULS Council Meeting Room, Crookwell.

There being no further business, meeting closed at 9.56am.



## MINUTES OF THE UPPER LACHLAN SHIRE COUNCIL EDTF COMMITTEE HELD TUESDAY 5 FEBRUARY 2019 AT CROOKWELL

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**Present:** Andrew Lindner, Clr. Richard Opie, Susan Reynolds & Daryl Smith (RDA)

**Staff:** Brenda Proudman (Economic Development Officer)  
(Non Voting)

**Apologies:** Clr. John Stafford, Catherine Duff, Clr. John Searl, Tina Dodson (Director of Environment & Planning) & John Bell (General Manager)

Meeting commenced at 9.00am.

**Declaration of Interest:** Nil.

### **Confirmation of Minutes:**

#### **Agenda Item 3.1**

Minutes from the 3 December 2018 were adopted as a true and correct record.

Moved – Brenda Proudman & Seconded by Susan Reynolds.

CARRIED

**Correspondence:** Nil.

#### **Agenda Item 4.1 – Upper Lachlan Shire's Youth Workshop**

Clr Richard Opie tabled the Project Proposal for engaging young people in the Economic Development of the Upper Lachlan Shire. The following motion was moved by Susan Reynolds and seconded by Andrew Lindner.

*The EDTF will form a partnership with the youth of Upper Lachlan Shire for mentoring, coaching, development and innovation opportunities. This partnership is formed on the alliance of building a stronger economic development platform for the youth in Upper Lachlan Shire.*

CARRIED

Brenda is to go ahead and investigate meeting avenues using skype, zoom or whatever platform is appropriate for meetings via the web.

The following recommendation was moved by Susan Reynolds and seconded by Andrew Lindner.

#### **Recommendation:**

That Council agrees to Development Impacts Pty Ltd engaging the youth of Upper Lachlan Shire in an Economic Development workshop to be run in conjunction with the Revitalisation & Action Plan meeting at the cost of \$5,000 + GST.

CARRIED

#### **Agenda Item 4.2 – Economic Development Revitalisation & Action Plan Workshop – 2**

Clr Richard Opie spoke to Peter McLean from Development Impacts Pty Ltd to discuss the second workshop. This workshop will be held on Sunday 24<sup>th</sup> March from 10am. If Council agree to fund the youth workshop he will then run the youth workshop on the same afternoon from 2.30pm.

#### **Agenda Item 4.3 – Community Open Day – 2019/2020 Financial Year**

Committee were asked to work on the format for funding the various community groups for the next meeting.



**Agenda Item 4.4 – SBFC Inaugural Conference 16<sup>th</sup> & 17<sup>th</sup> May, 2019**

The following recommendation was moved by Cllr Richard Opie and seconded by Andrew Lindner.

**Recommendation:**

That Council endorse sending Brenda Proudman & Susan Reynolds to attend the Small Business Friendly Councils Inaugural Conference in Sydney on 16<sup>th</sup> & 17<sup>th</sup> May, 2019 at a cost of \$350.00 per person.

CARRIED

**Agenda Item 5.1 – General Business**

Cllr Richard Opie suggested that Council form a committee for the 2020 – Two Hundred Year District Anniversary. The following recommendation was moved by Susan Reynolds and seconded by Andrew Lindner.

**Recommendation:**

That Council form a committee to work on the Two Hundred Year District Anniversary in 2020.

CARRIED

**Next Meeting** of the EDTF Committee Monday 4<sup>th</sup> March, 2019 at 4.30pm.

There being no further business, meeting closed at 9.55am.



## **The Tony Foley Memorial Gunning and District Community Centre s355 Annual General Meeting**

**1 November 2018 - Community Room, Tony Foley Centre**

Meeting opened at 4.30pm

### **1. Attendance and apologies.**

Present: Roslyn McLoughlin, Councillor John Searl, Norman Hindley, Margaret Dougall, Margaret McPherson, Julie Kennedy, Graham Dyer, Michael Coley.

Apologies: Kelly Dowling.

**Apology accepted (Michael Coley / Roslyn McLoughlin - carried)**

### **2. Minutes of previous AGM, 23 January 2018 read by Julie Kennedy.**

**Minutes confirmed (John Searl / Margaret Dougall - carried)**

### **3. Chairperson's report:** Roslyn McLoughlin read the report to the meeting for 2017 – 2018 year. **Report approved (Roslyn McLoughlin / Norman Hindley - carried)**

### **4. Financial report.** Presented by Treasurer Norman Hindley; the unaudited report balance at 30 June 2018 was \$1422.25 plus \$91.55 in Petty Cash.

Report not returned by Upper Lachlan Shire Council in time for the Annual General Meeting.

**Report approved (Norman Hindley / Margaret McPherson - carried)**

## **5. ELECTION OF OFFICE BEARERS**

**John Searl took the chair for the election**

The following were nominated, accepted to nomination, and were elected:

**Chair:** Roslyn McLoughlin      Nominated Michael Coley / Norman Hindley      Carried

**Vice-Chair:** John Searl noted that while there had previously been a vice-chair, there was no provision for such a position in the Council's Code of Meeting Practice. It was noted that the previous vice-chair, Kelly Dowling, had advised the Chair of her willingness to continue on the committee as vice-chair but as there was no written confirmation of this fact Kelly Dowling's appointment to the committee would have to be considered separately.

**Secretary:** Michael Coley      Nominated Ros McLoughlin / Margaret McPherson      Carried

**Treasurer:** Margaret McPherson      Nominated Michael Coley / Ros McLoughlin      Carried

### **Committee Members:**

Margaret Dougall      Nominated Michael Coley / Ros McLoughlin      Carried

Graham Dyer      Nominated Roslyn McLoughlin / Norman Hindley      Carried

Kelly Dowling      Nominated – but as not present, John Searl said could not be elected to the Committee. It was noted that Kelly had advised her availability but this issue would be addressed later.

### **6. Other Business:** Roslyn McLoughlin thanked the outgoing Treasurer Norman Hindley for his hard work as treasurer, key holder and minor maintenance of the Community Centre from 2016. Roslyn also welcomed the new office bearers and new members of the committee.

**Meeting closed at 4.45pm**



## **The Tony Foley Memorial Gunning District Community Centre s355 Committee Meeting 1 November 2018**

Meeting opened at 4.45pm following the AGM

### **1. Attendance and apologies.**

**Present:** Roslyn McLoughlin, Councillor John Searl, Norman Hindley, Margaret Dougall, Margaret McPherson, Julie Kennedy, Graham Dyer, Michael Coley.

**Apologies:** Kelly Dowling.

**Apology accepted - (Margaret Dougall / Norm Hindley - carried)**

### **2. Minutes of previous meeting, 2 August 2018: amendment Point 5 Maintenance Adam Moorby Minutes confirmed with amendment (Margaret McPherson / Roslyn McLoughlin - carried)**

### **3. Business arising from the minutes:**

- 1) Grant signed offer letter for Energy Development grant returned to Council mid-October but to date no money received.
- 2) Building Maintenance of the Foley Centre is in the hands of the Council. Agreed that a list of scheduled maintenance should be obtained from Council.

### **4. Correspondence In:**

- 1) Acceptance letter of the Cullerin Range Wind Farm Community Fund grant application received from Upper Lachlan Shire Council.
- 2) Email from Gunning District Association requesting written confirmation on a suggested amount for fees to use the Foley Community Centre and indication of how those fees are used.
- 3) Email from Gavin Douglas, Gunning District Association, advising that the vacuum cleaner does not work efficiently and requested that this is looked into; suggested that a contribution from other users of the meeting room; to cover the cost may be an option.
- 4) Letter from Upper Lachlan Shire Council advising the appointment of John Searl as Council's representative on the committee and forwarding Council's Section 355 Committee Policy and Section 355 Code of Meeting Practice.

### **5. Correspondence Out:**

- 1) Signed acceptance letter for the Cullerin Range Wind Farm grant returned to Council.

**Correspondence received (Margaret Dougall / Norm Hindley - carried)**

### **5. Financial report:** Presented by retiring Treasurer Norman Hindley. Balance \$1,552.45.

**Report received (Graham Dyer / Michael Coley carried)**

### **6. General Business:**

- 1) Roslyn McLoughlin provided table of usage and payments 2016 – 2018 to the committee for discussion, plus the Fees and Charges for use of the Community Meeting Room originally agreed on. Following brief discussion no changes made at this time.
- 2) Operational Plan submission for the Foley Community Centre discussed. Other users of the meeting room will be contacted to seek ideas for the future. A new oven was suggested as the current one does not operate all the time and a TV monitor mounted on the wall to enhance training where discussed. Building maintenance still a priority for the two buildings. Roslyn McLoughlin agreed to complete submission following discussion with Michael Coley.
- 3) Gunning District Association's Community Planning meeting; Roslyn McLoughlin will attend representing the Foley Community Centre Committee on 7 November.

### **7. Meeting closed at 5.15pm Next Meeting Thursday 7 February 4.30pm**







## **17       NOTICES OF MOTION**

There were no items submitted for this section at the time the Agenda was compiled.







## **18        QUESTIONS WITH NOTICE**

There were no items submitted for this section at the time the Agenda was compiled.







# **General Manager's Statement**

## **Confidentiality**

Councillors and staff are reminded of their obligations in respect to the need for confidentiality and not disclose or otherwise misuse the information which is about to be discussed, failure to do so could result in a reference to the Pecuniary Interest and Disciplinary Tribunal and/or result in a prosecution in accordance with Sec. 664 of the Act for which the maximum penalty is \$5,500.







## CONFIDENTIAL SESSION

Section 10A(2) of the Local Government Act, 1993 provides that Council may, by resolution, close to the public so much of its meeting as comprises the receipt or discussion of matters as listed in that section, or for any matter that arises during the course of business during the meeting that should be treated as confidential in accordance with Section 10(2) of the Act.

Council's Agenda for this meeting contains reports that meet the criteria specified in Section 10A(2) of the Act. To consider these reports in confidential session, Council can adopt the following recommendation:

### RECOMMENDATION

That, in accordance with Section 10A(2) of the Local Government Act, 1993, the Public and the Press be excluded from the meeting to enable Council to determine Item 19.1 19.2 19.3 19.4 19.5 19.6 in confidential session for the reasons indicated:

Item 19.1 Stormwater line replacement, Goulburn Street to Robertson Lane, Crookwell

*This report is considered to be confidential in accordance with Section 10A(2c) of the Local Government Act, 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

*This report is considered to be confidential in accordance with Section 10A(2d(i)) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.*

Item 19.2 Proposed Crown Road transfer to a Council Public Road

*This report is considered to be confidential in accordance with Section 10A(2a) of the Local Government Act, 1993, as it relates to personnel matters concerning particular individuals.*

Item 19.3 Community Services Upgrade at Pat Cullen Reserve

*This report is considered to be confidential in accordance with Section 10A(2c) of the Local Government Act, 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

*This report is considered to be confidential in accordance with Section 10A(2d(i)) of the Local Government Act, 1993, as it relates to*



*commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.*

*This report is considered to be confidential in accordance with Section 10A(2d(ii)) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council.*

**Item 19.4 Abercrombie River Bridge Replacement**

*This report is considered to be confidential in accordance with Section 10A(2c) of the Local Government Act, 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

*This report is considered to be confidential in accordance with Section 10A(2d(i)) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.*

**Item 19.5 Purchase of replacement wheel loader**

*This report is considered to be confidential in accordance with Section 10A(2c) of the Local Government Act, 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

*This report is considered to be confidential in accordance with Section 10A(2d(i)) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.*

*This report is considered to be confidential in accordance with Section 10A(2d(iii)) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, reveal a trade secret.*

**Item 19.6 Procurement of replacement of smooth drum roller**

*This report is considered to be confidential in accordance with Section 10A(2c) of the Local Government Act, 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

*This report is considered to be confidential in accordance with Section 10A(2d(i)) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.*

*This report is considered to be confidential in accordance with Section 10A(2d(iii)) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, reveal a trade secret.*



## **19      CONFIDENTIAL SESSION**

The following items are submitted for consideration -

- 19.1      Stormwater line replacement, Goulburn Street to Robertson Lane, Crookwell
- 19.2      Proposed Crown Road transfer to a Council Public Road
- 19.3      Community Services Upgrade at Pat Cullen Reserve
- 19.4      Abercrombie River Bridge Replacement
- 19.5      Purchase of replacement wheel loader
- 19.6      Procurement of replacement of smooth drum roller