

# Terms of Reference

**Committee:** Behaviour Complaints Committee

**Responsible Directorate:** Finance and Corporate Services

**Version:** Adopted

## 1. INTRODUCTION

- 1.1. The Council of the City of Busselton has established a Behaviour Complaints Committee (the Committee) pursuant to section 5.8 of the *Local Government Act 1995* (the Act).
- 1.2. The Committee is established for the purpose of dealing with complaints submitted under Part 3, clause 13 of the City of Busselton Code of Conduct for Council Members, Committee Members and Candidates (the Code).

## 2. OBJECTIVE

- 2.1. The objective of the Committee is to dismiss or make findings in relation to complaints received of alleged breaches of Part 3 - Behaviour, of the Code, in a fair, impartial and timely manner, following natural justice and due process principles.

## 3. MEMBERSHIP

- 3.1. The Council shall appoint all elected members to the Committee.

## 4. PRESIDING MEMBER

- 4.1. The Committee shall appoint a Presiding Member and Deputy Presiding Member to conduct its business.

## 5. MEETINGS

- 5.1. The Committee shall meet as required.
- 5.2. The part of the meeting that deals with a complaint will be held behind closed doors in accordance with s.5.23(2)b of the Act.
- 5.3. An appointed Committee member must not attend a Committee meeting if they are a complainant or respondent to a complaint under consideration by the Committee.
- 5.4. A Committee Member who is identified as either the complainant or respondent is required to recuse themselves by notifying the Presiding Member of their intention to be an apology for the meeting at which the Complaint is an agenda item.
- 5.5. The Committee may resolve to defer consideration to a future meeting at which any conflicted Committee Member is absent and a Deputy Committee Member is in attendance.
- 5.6. Notice of meetings shall be given to members at least five days prior to each meeting, with the agenda papers to be provided to members not less than 72 hours prior to the meeting.

- 5.7. The Presiding Member shall ensure that detailed minutes of all meetings are kept in accordance with the *City of Busselton Standing Orders Local Law 2018*.
- 5.8. All members of the Committee shall have one vote. If the vote of the members present is equally divided, the Presiding Member shall cast a second vote.
- 5.9. The Chief Executive Officer shall ensure that the outcomes of the Committee meeting will be on the agenda of the next practicable ordinary Council meeting for noting purposes.

## 6. QUORUM

- 6.1. The quorum for a meeting shall be at least 50% of the number of offices of membership, whether vacant or not.

## 7. DELEGATED POWERS

- 7.1. Pursuant to section 5.17 of the Act, the Committee is delegated the powers in accordance with the *Local Government (Model Code of Conduct) Regulations 2021* (the Regulations), clause 12(1), 12(4), and 12(7) and clause 13.
- 7.2. The Committee has the delegated power to:
  - a. make a finding as to whether an alleged breach the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur and determine reasons for any finding.
  - b. where a finding is made that a breach has occurred, the power to:
    - i. vary the proposed action plan; or
    - ii. consider the adoption of the action plan.
  - c. dismiss a complaint and determine the reasons for the dismissal.
- 7.3. The delegated powers of the Committee are subject to the following conditions:
  - a. the Committee will make decisions in accordance with Council Policy: Management of Complaints of Alleged Breaches of Behaviour and these Terms of Reference.
  - b. that part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act.
  - c. the Committee is prohibited from exercising its delegated power where a Committee Member in attendance at a Committee meeting is either the complainant or respondent to the Complaint under consideration by the Committee.

## 8. APPROVAL

<b>Council Adoption</b>	<b>DATE</b>	10 November 2021	<b>Resolution #</b>	C2111/087
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