

12.2 New Model Code of Conduct Regulations - Appointment of Complaints Officer

File Code	GV.DGA 1.4
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Disclosure of Any Interest	Nil
Attachments	1. Code of Conduct Complaints Form

SUMMARY

In accordance with instructions received on 2 February 2021 from the Department of Local Government, Sport and Cultural Industries (the Department), Council is requested to:

1. confirm its appointment of the Chief Executive Officer (CEO) as the complaints officer for minor breach complaints; and
2. approve the Department's template as the form to be used for lodging complaints (**Attachment 1**).

BACKGROUND

Following the gazettal of new regulations on 2 February 2021, coming into effect on 3 February 2021, the Department has issued instructions to all local governments aiming to implement the regulatory amendments within three months, by 3 May 2021.

Over the coming months Council will be required to take the following actions:

- Adopt the Model CEO Standards: mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government CEOs; and
- Adopt a new Code of Conduct for council members, committee members and candidates, that is compliant with the mandatory Model Code in the regulations.

Until such time as the new Code of Conduct is adopted, the Model Code applies. To begin the process of implementing the Model Code, local governments must as soon as possible, but no later than 24 February 2021:

- Appoint a person to receive complaints by either affirming the current complaint officer(s) or appointing new or additional officer(s); and
- Approve a form for complaints to be lodged. The Department has provided a template.

STATUTORY / LEGAL IMPLICATIONS

New legislation effective 3 February 2021:

Local Government (Administration) Amendment Regulations 2021;

Local Government (Model Code of Conduct) Regulations 2021.

POLICY IMPLICATIONS

Nil for this report.

A new Code of Conduct for council members, committee members and candidates and a new Code of Conduct for employees (to be drafted by the CEO) will replace the current Code of Conduct (Policy OR-12) by 3 May 2021.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.8 – Compliance with the Local Government Act 1995 and all relevant legislation and regulations

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: <u>Compliance</u> : Council does not implement the new rules in a timely manner.		
Likelihood	Consequence	Rating
Unlikely	Minor	Low
Action / Strategy		
Council is guided by the Department's instructions and adopts the recommendation of this report.		

EXTERNAL CONSULTATION

Nil

COMMENT

The Department advises that *"If action is not taken to affirm or appoint a complaints officer (by 24 February 2021) under the provisions of the regulations, a complaint made on or soon after the date of effect (3 February 2021) may lapse before it can be formally lodged. This would be considered inconsistent with the principles of procedural fairness and community expectations of local government."*

In accordance with section 5.120 the CEO is by default the designated complaints officer for minor breach complaints, unless another employee has been designated. At the Shire of Mundaring the CEO has always been the default complaints officer.

It will therefore be recommended that Council affirms the CEO as its complaints officer and adopts the Department's template form for lodging minor breach complaints.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council:

1. affirms its appointment of the Chief Executive Officer (CEO) as the complaints officer for minor breach complaints; and
2. approves the Department's template as the form to be used for lodging minor breach complaints (**Attachment 1**).

**Complaint About Alleged Breach Form -
Code of conduct for council members, committee members and
candidates**

Schedule 1, Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021*

- NOTE:** A complaint about an alleged breach must be made —
- (a) in writing in the form approved by the local government
 - (b) to an authorised person
 - (c) within one month after the occurrence of the alleged breach.

Name of person who is making the complaint:
Name: _____ <div style="display: flex; justify-content: space-around;"><u>Given Name(s)</u><u>Family Name</u></div>

Contact details of person making the complaint:
Address: _____
Email: _____
Contact number: _____

Name of the local government (city, town, shire) concerned:

Name of council member, committee member, candidate alleged to have committed the breach:

State the full details of the alleged breach. Attach any supporting evidence to your complaint form.

Date of alleged breach:
_____ / _____ / 20_____

SIGNED:
Complainant's signature:
Date of signing: _____ / _____ / 20_____

Received by Authorised Officer
Authorised Officer's Name:
Authorised Officer's Signature:
Date received: _____ / _____ / 20_____

NOTE TO PERSON MAKING THE COMPLAINT:

This form should be completed, dated and signed by the person making a complaint of an alleged breach of the Code of Conduct. The complaint is to be specific about the alleged breach and include the relevant section/subsection of the alleged breach.

The complaint must be made to the authorised officer within one month after the occurrence of the alleged breach.

Signed complaint form is to be forwarded to: (insert email/postal address)