

City of Hobart

Policy

Title: Elected Member Behaviour

Category: Corporate Governance

Date Last Adopted: 24 February 2020

1. Overview

The *Local Government Act 1993 (Act)* requires the Minister responsible for local government to prepare a Code of Conduct which applies to all elected representatives in Tasmania.

The Code articulates the acceptable behaviours of local government councillors and provides the legal avenue for recourse in situations where there may be a perceived breach of the Code.

In the interests of maintaining good governance of our capital city and earning the highest level of confidence in our elected members from our community, the Hobart City Council has endorsed this Elected Member Behaviour policy as a complementary document to the Code of Conduct.

The policy expands upon the Code by linking required behaviours with Council's strategic framework including our Strategic Plan, mission, values and good governance principles.

The policy is part of a suite of documents specifically prepared for elected members in support of their roles and functions as community leaders, including:

- Code of Conduct
- Elected Member Development and Support Policy;
- Elected Member Fitness to Undertake Duties Policy
- Elected Member Issues Resolution Policy
- Meeting Procedures Policy

Regular training and development will be provided to elected members to ensure awareness and adherence to the Code of Conduct and elected member policies.

This policy should not be regarded as an exhaustive statement on the rights and obligations of individuals that ordinarily apply under the law, including any avenues of reporting or redress that may be available to individuals in certain circumstances.

2. Purpose

The purpose of this policy is to set out the principles, values and behaviours that the Council has agreed upon as appropriate for the conduct of each of its elected members in undertaking their roles and functions, in accordance with the Code of Conduct and the *Act*.

The policy is intended to promote conduct by elected members which builds public confidence in the integrity of our capital city council and supports and fosters productive and effective working relationships between elected members, employees of Council and members of the community.

3. Scope

This policy is an extension of the Code of Conduct and aligns with the Hobart City Council's mission to *work together to make Hobart a better place for the community*.

As custodians of a capital city council, elected members hold unique and important leadership roles within Tasmania and are expected to set a benchmark of excellence.

In order to maintain public confidence in the effective and responsible governance of the City of Hobart, this policy reflects standards of behaviour which are acceptable within our society.

Where, in the reasonable opinion of an elected member, behaviour may not meet the standards of the Code of Conduct or reflect the requirements of this policy, informal issues resolution is addressed in Council's policy titled 'Elected Member Issue Resolution'.

In the event that an informal process cannot provide a resolution to a real or perceived breach, the "Code of Conduct" provides the legal avenue for recourse.

In circumstances involving a breach of other relevant legislation, alternative legal action may be appropriate.

4. Application

This policy applies to the conduct and behaviour of elected members towards their fellow elected members, Council employees and community members, whilst performing the functions and exercising their powers of office with the Council, in accordance with the definitions of the role of mayors, deputy mayors and councillors, set out in s27 and 28 of the Act.

For the purposes of this policy, the term elected member includes the Lord Mayor, the Deputy Lord Mayor and all other elected members of the Hobart City Council, except where the context otherwise indicates or requires.

5. Policy Principles

As community leaders, Hobart City Council elected members hold a position of significant responsibility and are expected to undertake their roles and functions in a manner which adheres to the highest standards of behaviour and demonstrates good governance in discharging their duties.

The publication *Good Governance Guide for Local Government in Tasmania* states that good governance is being provided when elected members:

- act with the highest ethical standards;
- understand their role and the role of others;
- foster trusting and respectful relationships;
- show a commitment to risk management;
- engage in effective strategic planning;
- follow a transparent and accountable decision making process;
- make good decisions that promote the interests of the community they serve;
- understand and abide by the law;
- commit to continuous improvement; and
- have good judgement.

As a democratically governed local government organisation, the role of elected members is to represent the wide range of views held within our community.

In doing so, elected members must be cognisant of the importance of respectful behaviour which is critical to the teamwork required to support a productive and highly functioning public body.

The conduct of individual elected members should align with the City's adopted values of people, teamwork, focus and direction, creativity and innovation and accountability, and be demonstrated through application of the following principles:

- acting with integrity;
- impartially exercising the responsibilities of an elected member, in the interests of the local community;
- providing civic leadership and contributing effectively to the interests and advancement of the City of Hobart and its community;
- contributing to the strategic vision for Council;
- upholding public trust in the office of elected member by refraining from any action or behaviour that would bring the City of Hobart into disrepute.

The following actions demonstrate behaviours which engender public confidence in the Hobart City Council and its individual elected members:

- representing the community lawfully and acting in accordance with the trust placed in the elected members of the Hobart City Council;
- treating all persons with respect and having due regard to the opinions, beliefs, rights and responsibilities of other elected members, council employees and community members;
- acting honestly and avoiding statements (verbal or in writing) or actions that would or would be likely to mislead or deceive a person;
- exercising due care and diligence as elected members and submitting to the lawful scrutiny that is appropriate to the office of a local government representative;
- endeavouring to ensure that public resources are used appropriately and in the public interest; and
- avoiding conflicts between public duties as an elected member and personal interests and obligations;

6 Elected Member Behaviour Obligations

Elected members are obliged to uphold the law and actively contribute to a healthy working environment for colleagues, Council employees and the community by adhering to the highest standards of behaviour whenever and wherever they may be undertaking their duties.

The Council is committed to upholding the principle of equal opportunity by treating all people with dignity and respect.

The Council will not tolerate disrespectful conduct by elected members which would amount to unlawful discrimination, harassment (including sexual harassment), victimisation, racial and religious vilification or workplace bullying. These terms are explained below.

6.1 Unlawful Discrimination

Unlawful discrimination means direct or indirect discrimination on the basis of a protected attribute.

Protected attributes are specifically listed in anti-discrimination legislation.

Protected attributes include the following:

- race;
- age;
- sexual orientation;
- lawful sexual activity;
- gender;
- gender identity;
- intersex variations of sex characteristics;
- marital status;
- relationship status;
- pregnancy;
- breastfeeding;
- parental status;
- family responsibilities;
- disability;
- industrial activity;
- political belief or affiliation;
- political activity;
- religious belief or affiliation;
- religious activity;
- irrelevant criminal record;
- irrelevant medical record;
- association with a person who has, or is believed to have, any of these attributes.

Direct discrimination occurs if a person treats another person with a protected attribute unfavourably because of that protected attribute.

Some examples of direct discrimination are:

- Not offering computer training to an older elected member because of their age and a view that they will not be a member of the Council for much longer;
- Excluding an elected member from participation on a Council Committee because of a protected attribute, for example, their religious belief or age.

Indirect discrimination occurs if a person imposes a requirement, condition or practice that disadvantages a person with a protected attribute and that requirement, condition or practice is not reasonable.

Some examples of indirect discrimination are:

- Holding a Council team building event at a sporting venue that does not permit access or participation by an elected member with a disability;
- Making it a requirement that elected members be members of a group or association in order to be a member of a committee.

Unlawful discrimination can occur even where there is no specific intention to do so.

6.2 Harassment

Harassment occurs when someone engages in conduct that would make a reasonable person feel offended, humiliated or intimidated because of their age, race, religion, gender identity or other attribute specified under anti-discrimination legislation.

Some examples of harassment are:

- Ageist or racist comments or jokes about another elected member; or
- Isolating an elected member because of their sexual orientation.

A person's intention or motive for conduct that constitutes harassment is irrelevant to whether unlawful harassment has taken place.

6.3 Sexual Harassment

Sexual harassment means unwelcome conduct of a sexual nature where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated. The intention of the harasser is irrelevant.

Some examples of sexual harassment are:

- Repeatedly asking another elected member to go on a date when that person has already declined;
- Sending an email to another elected member with sexually explicit images attached.

6.4 Racial or Religious Vilification

Racial or religious vilification means conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, a person or group of persons on the basis of their race or religious belief. Serious racial or religious vilification involves a threat to harm another person or their property, and could be a criminal offence.

Some examples of racial or religious vilification are:

- Sending an email to your colleagues that ridicules individuals who are Chinese;
- Making threats to harm a colleague because they are a Muslim (serious religious vilification).

A person's intention or motive for conduct that constitutes racial or religious vilification is irrelevant to whether such vilification has taken place.

6.5 Victimisation

Victimisation means unfavourable treatment of another person who reports or complains about any of the conduct covered by this policy.

Some examples of victimisation are:

- Denying an elected member access to information shared with other elected members because they have made a complaint about unlawful discrimination;
- Excluding or isolating an elected member because they have made a complaint of sexual harassment against an associate.

6.6 Bullying

Bullying is repeated unreasonable behaviour directed towards a person(s) which creates a risk to the health and safety of that person(s).

'Unreasonable behaviour' is behaviour that a reasonable person, having regard to all the circumstances, believes or expects would victimise, humiliate, undermine or threaten another person.

A broad range of behaviours can be considered to be bullying. Some examples include:

- verbal abuse, insults or name-calling;
- continually making jokes about a person, or singling out one person for remarks more often than others in a group;
- personal attacks, threats, intimidation and misuse of power;
- deliberate exclusion or isolation;
- deliberately withholding information from someone where that information is essential to their ability to perform their work effectively.

A single incident of unreasonable behaviour, while not bullying, may still create a risk to health and safety and will not be tolerated.

7. Responsibilities

7.1 Elected Members will:

- treat all people with dignity and respect,
- report any unacceptable conduct,
- ensure their behaviour is appropriate at all times and in accordance with the City of Hobart's values,
- cooperate with any investigation into, or arbitration of, a complaint made under this policy,
- maintain confidentiality regarding any complaint raised under this policy, unless the elected member has been given explicit permission by the individual bringing the complaint or they are legally obliged to provide information to appropriate authorities,
- not make or cause to make a vexatious, false or frivolous complaint,
- maintain a professional and safe work environment free from unacceptable conduct, and
- take reasonable and proportionate measures to prevent and/or resolve unacceptable conduct as far as possible.

7.2 The General Manager will:

- assist Council in the implementation of the Issue Resolution Procedure,
- ensure that support and assistance is available to all elected members where it is required.

8. Procedure for Dealing with Alleged Breaches of the Code of Conduct or this Policy

Elected members are expected to use their best efforts to resolve concerns with the behaviour of fellow elected members, Council employees or members of the community, in a respectful and courteous manner.

If an elected member believes that this policy or the Code of Conduct has been breached, the elected member should refer to the policy titled “Elected Member Issue Resolution” and implement any actions under it as the first means of seeking to address the matter.

In the event that a satisfactory outcome cannot be achieved, a legal process may be appropriate through a Code of Conduct complaint, as provided in the *Act*, or other relevant legislation which may have been breached.

9. Elected Member Commitment to the Policy

In accordance with the Council's endorsement of the Code of Conduct and this Elected Member Behaviour Policy, elected members are required, upon election (and in circumstances where the policies may be changed by the Council) to commit their adherence to the Code of Conduct and the policies which relate to elected member behaviour and support.

Elected Member Attestation:

I acknowledge that I have been elected by the community to a position of significant responsibility with the expectation that I will act in accordance with the principles and behaviours of good governance and demonstrate values which are accepted within our society.

I declare my commitment to abide by this expectation by attesting my adherence to the Elected Member Behaviour Policy.

10. Policy Review

This policy will be reviewed every twelve months, at which time the Council will review each of its policies applying to elected members to ensure that they continue to meet the standards required by the Council and expected by the community.

11. Legislative and policy references