

FEB 2019



CITY OF HOBART

ELECTED MEMBER CODE OF CONDUCT



City of **HOBART**

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PREAMBLE

Section 28T of the *Local Government Act 1993* ("the Act") requires each council to adopt the model code of conduct, with or without variations as permitted by the Act, as its code of conduct relating to the conduct of its Elected Members.

The role of an elected member is defined in Section 28 of the *Local Government Act 1993* which provides the functions of individual elected members and elected members collectively.

The *Local Government (Model Code of Conduct) Order 2016* sets out the model Code of Conduct.

The model Code of Conduct was adopted by the City of Hobart, without variation, at its meeting held on 18 February 2019.

Further, the Council resolved at its meeting held on 12 October 2015 to include the following statement in respect to workplace health and safety:

"It is expected that Elected Members will behave responsibly in regard to appropriate use of alcohol and other drugs while on Council duties.

In support of this, facilities are available in the Aldermen's Lounge and adjacent to the Lord Mayor's Courtroom to provide for self-testing."

N.D. Heath
General Manager

ACCOMPANYING CONTENT TO THE MODEL CODE OF CONDUCT

1. INTRODUCTION

Purpose of Code of Conduct

This Code of Conduct sets out the standards of behaviour expected of Elected Members of the City of Hobart, with respect to all aspects of their role.

As leaders in the community, Elected Members acknowledge the importance of high standards of behaviour in maintaining good governance. Good governance supports each Elected Member's primary goal of acting in the best interests of the community.

Elected Members therefore agree to conduct themselves in accordance with the standards of behaviour set out in the Code of Conduct.

This Code of Conduct incorporates the Model Code of Conduct made by Order of the Minister responsible for local government.

Application of Code of Conduct

This Code of Conduct applies to an Elected Member whenever they:

- conducts council business, whether at or outside a meeting;
- conducts the business of their office (which may be that of Lord Mayor, Deputy Mayor or Elected Member); or
- acts as a representative of the Council.

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

Standards of conduct prescribed under the Model Code of Conduct

The model code of conduct provides for the following eight standards of conduct:

1. Decision making

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

2. Conflict of interest

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

3. Use of office

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

4. Use of resources

An Elected Member uses Council resources and assets strictly for the purpose of performing their role.

5. Use of information

An Elected Member uses information appropriately to assist in performing their role in the best interests of the community.

6. Gifts and benefits

An Elected Member adheres to the highest standards of transparency and accountability in relation to the receiving of gifts or benefits, and carries out their duties without being influenced by personal gifts or benefits.

7. Relationships with community, Elected Members and council employees

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

8. Representation

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

Principles of good governance

By adopting this Code of Conduct, Elected Members commit to the overarching principles of good governance by being:

Accountable – Explain, and be answerable for, the consequences of decisions made on behalf of the community.

Transparent – Ensure decision making processes can be clearly followed and understood by the community.

Law-abiding – Ensure decisions are consistent with relevant legislation or common law, and within the powers of local government.

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

Equitable – Provide all groups with the opportunity to participate in the decision making process and treat all groups equally.

Participatory and inclusive – Ensure that anyone affected by or interested in a decision has the opportunity to participate in the process for making that decision.

Effective and efficient – Implement decisions and follow processes that make the best use of the available people, resources and time, to ensure the best possible results for the community.

Consensus oriented – Take into account the different views and interests in the community, to reach a majority position on what is in the best interests of the whole community, and how it can be achieved.

2. LEGISLATION

The code of conduct framework is legislated under the *Local Government Act 1993* (the Act). The Act is available to view via the Tasmanian Legislation Website at www.thelaw.tas.gov.au.

Code of Conduct

Elected Members are required to comply with the provisions of the Council's Code of Conduct while performing the functions and exercising the powers of their office with the council.

The Code of Conduct incorporates the Model Code of Conduct (made by Order of the Minister responsible for local government) and may include permitted variations included as attached schedules to the Model Code of Conduct.

Making a code of conduct complaint

A person may make a code of conduct complaint against one Elected Member in relation to the contravention by the Elected Member of the council's code of conduct.

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

Code of conduct complaints are lodged with the General Manager of the council and must comply with legislative requirements, as outlined below.

A complaint may not be made by more than two complainants jointly. A code of conduct complaint is to –

- be in writing;
- state the name and address of the complainant;
- state the name of each Elected Member against whom the complaint is made;
- state the provisions of the code of conduct that the Elected Member has allegedly contravened;
- contain details of the behaviour of each Elected Member that constitutes the alleged contravention;
- be lodged with the General Manager within six months after the Elected Member or Elected Members against whom the complaint is made allegedly committed the contravention of the code of conduct; and
- be accompanied by the code of conduct complaint lodgement fee.

Once satisfied that the code of conduct complaint meets prescribed requirements, the General Manager forwards the complaint to the Code of Conduct Panel.

Code of conduct complaint lodgement fee

The code of conduct complaint lodgement fee is prescribed under Schedule 3 (Fees) of the *Local Government (General) Regulations 2015*.

3. FURTHER ASSISTANCE

Elected Member dispute resolution

Elected Members commit to developing strong and positive working relationships and working effectively together at all times.

Prior to commencing a formal code of conduct complaint, the Elected Members who are parties to any disagreement should endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to act in the best interests of the community.

A council's internal dispute resolution process should be the first step that is taken when there is a dispute between Elected Members.

An Elected Member who is party to any disagreement should request the Lord Mayor or the General Manager to assist the Elected Member in resolving the disagreement informally.

If the informal assistance does not resolve the disagreement, the General Manager may, with the consent of the parties involved, choose to appoint an external mediator to assist in the resolution of the disagreement. If an external mediator is appointed, Elected Members who are party to the disagreement must strive to cooperate with the mediator and use their best endeavours to assist the mediator and participate in the mediation arranged.

Where a matter cannot be resolved through internal processes, the next step may be to lodge a formal code of conduct complaint.

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

MODEL CODE OF CONDUCT

For the purposes of section 28R(1) of the Act, the Code of Conduct set out in Schedule 1 is the Model Code of Conduct relating to the conduct of elected members.

INTERPRETATION

- (1) In this order Act means the *Local Government Act 1993*
- (2) *The Acts Interpretation Act 1931* applies to the interpretation of this order as if the order were by-laws.

PART 1 - DECISION MAKING

1. An Elected Member must bring an open and unprejudiced mind to all matters being decided upon in the course of their duties, including when making planning decisions as part of the Council's role as a Planning Authority.
2. An Elected Member must make decisions free from personal bias or prejudgement.
3. In making decisions, an Elected Member must give genuine and impartial consideration to all relevant information known to them, or of which they should have reasonably been aware.
4. An Elected Member must make decisions solely on merit and must not take irrelevant matters or circumstances into account when making decisions.

PART 2 - CONFLICT OF INTERESTS THAT ARE NOT PECUNIARY

1. When carrying out their public duty, an Elected Member must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that they may have.
2. An Elected Member must act openly and honestly in the public interest.
3. An Elected Member must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the Council and at any workshop or any meeting of a body to which the Elected Member is appointed or nominated by the Council.
4. An Elected Member must act in good faith and exercise reasonable judgement to determine whether they have an actual, potential or perceived conflict of interest.
5. An Elected Member must avoid, and remove themselves from, positions of conflict of interest as far as reasonably possible.
6. An Elected Member who has an actual, potential or perceived conflict of interest in a matter before the Council must –
 - (a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and

- (b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the Elected Member to remove themselves physically from any Council discussion and remain out of the room until the matter is decided by the Council.

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

PART 3 - USE OF OFFICE

1. The actions of an Elected Member must not bring the Council or the office of Elected Member into disrepute.
2. An Elected Member must not take advantage, or seek to take advantage, of their office or status to improperly influence others in order to gain an undue, improper, unauthorised or unfair benefit or detriment for themselves or any other person or body.
3. In their personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), an Elected Member must not expect nor request, expressly or implicitly, preferential treatment for themselves or any other person or body.

PART 4 - USE OF RESOURCES

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

PART 5 - USE OF INFORMATION

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

PART 6 - GIFTS AND BENEFITS

1. An Elected Member may accept an offer of a gift or benefit if it directly relates to the carrying out of the Elected Member's public duties and is appropriate in the circumstances and is not in contravention of any relevant legislation.
2. An Elected Member must avoid situations in which a reasonable person would consider that any person or body, through the provision of gifts or benefits of any kind, is securing (or attempting to secure) influence or a favour from the Elected Member or the Council.

PART 7 - RELATIONSHIPS WITH COMMUNITY, ELECTED MEMBERS AND COUNCIL EMPLOYEES

1. An Elected Member–
 - (a) must treat all persons fairly; and
 - (b) must not cause any reasonable person offence or embarrassment; and
 - (c) must not bully or harass any person.
2. An Elected Member must listen to, and respect, the views of other Elected Members in Council and committee meetings and any other proceedings of the Council, and endeavour to ensure that issues, not personalities, are the focus of debate.
3. An Elected Member must not contact or issue instructions to any of the Council’s contractors or tenderers, without appropriate authorisation.
4. An Elected Member must not contact an employee of the Council in relation to Council matters unless authorised by the General Manager of the Council.

PART 8 - REPRESENTATION

1. When giving information to the community, an Elected Member must accurately represent the policies and decisions of the Council.
2. An Elected Member must not knowingly misrepresent information that they have obtained in the course of their duties.
3. An Elected Member must not speak on behalf of the Council unless specifically authorised or delegated by the Lord Mayor.
4. An Elected Member must clearly indicate when they are putting forward their personal views.
5. An Elected Member’s personal views must not be expressed publicly in such a way as to undermine the decisions of the Council or bring the Council into disrepute.
6. An Elected Member must show respect when expressing personal views publicly.
7. The personal conduct of an Elected Member must not reflect, or have the potential to reflect, adversely on the reputation of the Council.
8. When representing the Council on external bodies, an Elected Member must strive to understand the basis of the appointment and be aware of the ethical and legal responsibilities attached to such an appointment.

PART 9 - VARIATION OF CODE OF CONDUCT

Any Variation of this Model Code of Conduct is to be in accordance with section 28T of the Act.

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