



MODEL CODE OF CONDUCT POLICY

POLICY TYPE	POLICY ADOPTED (DATE)	MINUTE NUMBER	POLICY DOCUMENT NUMBER (TRIM):
Council	January 2019	13/19 (GFC 01/19)	D563771
DOCUMENT CONTROLLER	RESPONSIBLE MANAGER	STRATEGIC PLAN 2009-2030 (STRATEGY REFERENCE)	DATE OF NEXT REVIEW
General Manager	General Manager	5.3.2 – Provide appropriate support to elected members to enable them to discharge their functions	Within 3 months after each ordinary election
PURPOSE	<p>This Code of Conduct sets out the standards of behaviour expected of the Councillors of the Devonport City Council, with respect to all aspects of their role.</p> <p>As leaders in the community, councillors acknowledge the importance of high standards of behaviour in maintaining good governance. Good governance supports each councillor's primary goal of acting in the best interests of the community.</p> <p>Councillors therefore agree to conduct themselves in accordance with the standards of behaviour set out in the Code of Conduct.</p> <p>This Code of Conduct incorporates the Model Code of Conduct made by Order of the Minister responsible for local government.</p>		
SCOPE	<p>This Code of Conduct applies to a councillor whenever he or she:</p> <ul style="list-style-type: none"> • conducts council business, whether at or outside a meeting; • conducts the business of his or her office (which may be that of mayor, deputy mayor or councillor); or • acts as a representative of the Council. 		
POLICY	<p>Model Code of Conduct:</p> <p>PART 1 - Decision making</p> <ol style="list-style-type: none"> 1. A councillor must bring an open and unprejudiced mind to all matters being decided upon in the course of his or her duties, including when making planning decisions as part of the Council's role as a Planning Authority. 2. A councillor must make decisions free from personal bias or prejudgement. 3. In making decisions, a councillor must give genuine and impartial consideration to all relevant information known to him or her, or of which he or she should have reasonably been aware. 4. A councillor must make decisions solely on merit and must not take irrelevant matters or circumstances into account when making decisions. <p>PART 2 - Conflict of interests that are not pecuniary</p> <ol style="list-style-type: none"> 1. When carrying out his or her public duty, a councillor must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that he or she may have. 2. A councillor must act openly and honestly in the public interest. 3. A councillor 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 councillor is appointed or nominated by the Council.

4. A councillor must act in good faith and exercise reasonable judgement to determine whether he or she has an actual, potential or perceived conflict of interest.
5. A councillor must avoid, and remove himself or herself from, positions of conflict of interest as far as reasonably possible.
6. A councillor 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 on 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 councillor to remove himself or herself 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 a councillor must not bring the Council or the office of councillor into disrepute.
2. A councillor must not take advantage, or seek to take advantage, of his or her office or status to improperly influence others in order to gain an undue, improper, unauthorised or unfair benefit or detriment for himself or herself or any other person or body.
3. In his or her personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), a councillor must not expect nor request, expressly or implicitly, preferential treatment for himself or herself or any other person or body.

PART 4 - Use of resources

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

PART 5 - Use of information

1. A councillor must only access or use Council information needed to perform his or her role and not for personal reasons or non-official purposes.
2. A councillor 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. A councillor may accept an offer of a gift or benefit if it directly relates to the carrying out of the councillor's public duties and is appropriate in the circumstances and is not in contravention of any relevant legislation.
2. A councillor must avoid situations in which a reasonable person

would consider that any person or body, through the provisions of gifts or benefits of any kind, is securing (or attempting to secure) influence or a favour from the councillor or the Council.

PART 7 - Relationships with community, councillors and Council employees

1. A councillor –
 - 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. A councillor must listen to, and respect, the views of other councillors 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. A councillor must not contact or issue instructions to any of the Council's contractors or tenderers, without appropriate authorisation.
4. A councillor 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, a councillor must accurately represent the policies and decisions of the Council.
2. A councillor must not knowingly misrepresent information that he or she has obtained in the course of his or her duties.
3. A councillor must not speak on behalf of the Council unless specifically authorised or delegated by the Mayor or Lord Mayor.
4. A councillor must clearly indicate when he or she is putting forward his or her personal views.
5. A councillor'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. A councillor must show respect when expressing personal views publicly.
7. The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council.
8. When representing the Council on external bodies, a councillor 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

1. Any variation of this model code of conduct is to be in accordance with section 28T of the Act.

	<p>would consider that any person or body, through the provisions of gifts or benefits of any kind, is securing (or attempting to secure) influence or a favour from the councillor or the Council.</p> <p>PART 7 - Relationships with community, councillors and Council employees</p> <ol style="list-style-type: none"> 1. A councillor – <ol style="list-style-type: none"> 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. A councillor must listen to, and respect, the views of other councillors 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. A councillor must not contact or issue instructions to any of the Council's contractors or tenderers, without appropriate authorisation. 4. A councillor must not contact an employee of the Council in relation to Council matters unless authorised by the General Manager of the Council. <p>PART 8 – Representation</p> <ol style="list-style-type: none"> 1. When giving information to the community, a councillor must accurately represent the policies and decisions of the Council. 2. A councillor must not knowingly misrepresent information that he or she has obtained in the course of his or her duties. 3. A councillor must not speak on behalf of the Council unless specifically authorised or delegated by the Mayor or Lord Mayor. 4. A councillor must clearly indicate when he or she is putting forward his or her personal views. 5. A councillor'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. A councillor must show respect when expressing personal views publicly. 7. The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council. 8. When representing the Council on external bodies, a councillor must strive to understand the basis of the appointment and be aware of the ethical and legal responsibilities attached to such an appointment. <p>PART 9 – Variation of Code of Conduct</p> <ol style="list-style-type: none"> 1. Any variation of this model code of conduct is to be in accordance with section 28T of the Act.
LEGISLATION AND RELATED DOCUMENTS	<p><i>Local Government Act 1993</i> <i>Local Government (General) Regulations 2015</i> <i>Public Interest Disclosures Act 2002</i></p>
ATTACHMENTS	<p>Appendix 1 - Notes Accompanying the Model Code of Conduct Appendix 2 - Code of Conduct Complaint Form Appendix 3 – Requirements for completing a Statutory Declaration (attached 6 March 2020 on advice from DPAC)</p>

1. Introduction

Purpose of code of conduct

This Code of Conduct sets out the standards of behaviour expected of the councillors of the Devonport City Council, with respect to all aspects of their role.

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

Councillors 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 a councillor whenever he or she:

- conducts council business, whether at or outside a meeting;
- conducts the business of his or her office (which may be that of mayor, deputy mayor or councillor); 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 the councillor 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

A councillor is to bring an open and unprejudiced mind to all matters being considered in the course of his or her duties, so that decisions are made in the best interests of the community.

2. Conflict of interests that are not pecuniary

A councillor effectively manages conflict of interest by ensuring that personal or private interests do not influence, and are not seen to influence, the performance of his or her role and acting in the public interest.

3. Use of office

A councillor uses his or her office solely to represent and serve the community, conducting himself or herself in a way that maintains the community's trust in the councillor and the Council as a whole.

4. Use of resources

A councillor uses Council resources and assets strictly for the purpose of performing his or her role.

5. Use of information

A councillor uses information appropriately to assist in performing his or her role in the best interests of the community.

6. Gifts and benefits

A councillor adheres to the highest standards of transparency and accountability in relation to the receiving of gifts or benefits, and carries out his or her duties without being influenced by personal gifts or benefits.

7. Relationships with community, councillors and council employees

A councillor is to be respectful in his or her conduct, communication and relationships with members of the community, fellow councillors and Council employees in a way that builds trust and confidence in the Council.

8. Representation

A councillor is to represent himself or herself and the Council appropriately and within the ambit of his or her role, and clearly distinguish between his or her views as an individual and those of the Council.

Principles of good governance

By adopting this Code of Conduct, councillors 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

Tasmanian councillors are required to comply with the provisions of the Council's Code of Conduct while performing the functions and exercising the powers of his or her 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 councillor in relation to the contravention by the councillor of the relevant council's code of conduct.

A person may make a complaint against more than one councillor 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 relevant 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 councillor against whom the complaint is made;
- state the provisions of the relevant code of conduct that the councillor has allegedly contravened;
- contain details of the behaviour of each councillor that constitutes the alleged contravention;
- be lodged with the general manager within six months after the councillor or councillors 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*. The lodgement fee is 50 fee units (\$81.00 in 2019/20*).

3. Further assistance

Councillor dispute resolution

Councillors 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 councillors 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 councillors.

A councillor who is party to any disagreement should request the Mayor (or Lord Mayor) or the General Manager to assist that councillor 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, councillors 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.

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

Complaints under the *Local Government Act 1993*

The Director of Local Government is responsible for the investigation of complaints regarding alleged breaches of the *Act*.

Any person can make a complaint to the Director, via the Local Government Division (contact details below), in accordance with section 339E of the *Act*, where it is genuinely believed that a council, councillor or general manager may have committed an offence under the *Act* or failed to comply with the requirements of the *Act*.

To make a complaint, it is recommended that you first contact the Local Government Division to discuss whether the matter is something that the Division can assist with.

Public Interest Disclosure

Any instances of suspected corrupt conduct, maladministration and serious and substantial waste of public resources or substantial risk to public health or safety or to the environment should be reported in accordance with the *Public Interest Disclosures Act 2002*. Disclosures may be made to the Tasmanian Ombudsman or the Tasmanian Integrity Commission.

Key contacts

Department of Premier and Cabinet's Local Government Division
Executive Building, 15 Murray Street, HOBART TAS 7000
GPO Box 123, HOBART TAS 7001
Phone: (03) 6232 7022 Fax: (03) 6232 5685
Email: lgd@dpac.tas.gov.au
Web: www.dpac.tas.gov.au/divisions/local_government

Local Government Association of Tasmania
326 Macquarie Street, HOBART TAS 7000
GPO Box 1521, HOBART TAS 7001
Phone: (03) 6233 5966
Email: admin@lgat.tas.gov.au
Web: www.lgat.tas.gov.au

The Tasmanian Integrity Commission
Surrey House, Level 2, 199 Macquarie Street, HOBART TAS 7000
GPO Box 822, HOBART TAS 7001
Phone: 1300 720 289
Email: mper@integrity.tas.gov.au
Web: www.integrity.tas.gov.au

Ombudsman Tasmania
NAB House, Level 6, 86 Collins Street, HOBART TAS 7000
GPO Box 123, HOBART TAS 7001
Phone: 1800 001 170
Email: ombudsman@ombudsman.tas.gov.au
Web: www.ombudsman.tas.gov.au

Complaint form

Local Government Code of Conduct

Instructions for Use

This form is for making a complaint under your council's Local Government Code of Conduct.

This form has been provided to ensure that you include all the information required under the *Local Government Act 1993* in your complaint. You will need to complete all the sections in this form.

To make a valid complaint, you will need to:

- Complete this form or otherwise put your complaint in writing as described below;
- Provide a statutory declaration, signed by each person making the complaint, verifying the accuracy of the information contained in the complaint. The approved form for a statutory declaration can be downloaded at: www.justice.tas.gov.au/forms/statutory_declarations;
- Lodge the complaint and statutory declaration with the general manager of your council within six months of the councillor or councillors committing the alleged breach; and
- Pay the fee for lodging a complaint to the relevant council. The current fee is 50 fee units. Fee units are set each financial year, with the current values available at: www.treasury.tas.gov.au/economy/economic-policy-and-reform/fee-units

You do not have to use this form. If you choose not to use this form, your complaint will need to:

- Be in writing;
- State your name and address and the name and address of any other complainants;
- State the name of each councillor you are making the complaint against;
- State which provision/s of the relevant code of conduct each councillor has allegedly breached;
- Detail the behavior of each councillor that you allege breached the Code;
- Details what efforts you have made to resolve the complaint with the relevant councillor;
- Be accompanied by a statutory declaration, and the required fee, and be lodged with the general manager of your council, as outlined above.

Complaint form

Local Government Code of Conduct

CONTACT DETAILS (of person making the complaint)	
Name:	Telephone (mobile):
Address (Residential):	Telephone (work):
Address (Postal):	Telephone (home):
Email address:	Preferred mode of contact:
SUMMMARY OF COMPLAINT	
Name of Councillor who you believe has breached the Code of Conduct:	
Provisions of the Code of Conduct that you believe have been breached:	
Date(s) of incident(s):	
Location(s) of incident(s):	

Complaint form

Local Government Code of Conduct

DETAILS OF THE COMPLAINT (further information may be attached)

WITNESSES (include anyone with knowledge of what happened)

HAVE YOU PREVIOUSLY MADE A CODE OF CONDUCT COMPLAINT ABOUT THIS MATTER?

YES NO

If yes, when did you make the complaint?

Complaint form

Local Government Code of Conduct

HAVE YOU MADE ANY EFFORTS TO RESOLVE THE COMPLAINT WITH THE RESPONDENT COUNCILLOR?

(NOTE: THIS SECTION IS COMPULSORY. FAILURE TO ADEQUATELY COMPLETE IT MAY RESULT IN THE COMPLAINT BEING RETURNED TO YOU)

YES

Briefly describe the efforts that you have made (NOTE: YOU MUST COMPLETE THIS SECTION):

NO

Include a brief statement explaining why you have not made any efforts to resolve the issue with the respondent councillor:

DESIRED OUTCOME OF COMPLAINT

Please explain what you would like to happen as a result of lodging this complaint:

PLEASE SIGN AND DATE

SIGNATURE:

Date:

Requirements for completing a Statutory Declaration

In Tasmania, Section 14 of the *Oaths Act 2001* covers Statutory Declarations.

A Justice of the Peace (JP), Commissioner for Declarations or other person authorised by law to administer an oath may take and receive a Statutory Declaration by a person. A Statutory Declaration is a voluntary declaration and is not valid unless the person witnessing the signing of the declaration is a JP, a Commissioner for Declarations or an authorised person.

A list of JPs in Tasmania is available on the Department of Justice website www.justice.tas.gov.au. Each JP is allocated a unique number which they must use when performing the function of a JP.

Commissioners for Declarations are persons:

- (a) authorised to practise as a member of a profession listed in Part 1 of the Schedule to the *Statutory Declarations Regulations 1993* of the Commonwealth; or
- (b) a person listed in Part 2 of that Schedule (occupations); or
- (c) a member of a group of persons declared by the Minister to be an occupational group for the purposes of this section.

The approved Statutory Declaration form must be used and can be found at www.justice.tas.gov.au

A valid Statutory Declaration must contain the following:

- Full name, address, occupation and telephone number of the person making the declaration and signature of the person making the statement;
- The information being declared;
- Full name and credentials (including JP number if appropriate) of the JP, Commissioner for Declarations or authorised person witnessing the signature; and
- The date the declaration is signed and witnessed.

In addition:

- All corrections, gaps and erasures should be initialled by the person making the statement and the witness;
- The Statutory Declaration document form should be crossed through from where the statement finishes to the signature block to ensure that nothing can be added after validation;
- Where a Statutory Declaration contains attachments:
 - These should be described, numbered and referenced in the body of the declaration (in the 'facts' section). For example, 'Attachment A, numbers 1-8, bank statements; Attachment B, numbers 1-3, proof of identity documents' and so on.
 - Each page of the attachments should be initialled by both the person making the statement and the witness.