

Council Member Behavioural Support Policy

Strategic Alignment - Enabling Priorities

Public

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City Finance and Governance Committee

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EXECUTIVE SUMMARY

In November 2022, changes to the *Local Government Act 1999 (SA)* ('the Act') introduced a Behavioural Management Framework and required that all councils must consider, within six months after the conclusion of each periodic election, whether it should adopt a Behavioural Support Policy (or policies) to support appropriate behaviour by members of the council (Section 75F).

While not mandatory, a Behavioural Support Policy may specify directions relating to behaviours, set out guidelines relating to compliance with the Behavioural Standards for Council Members, or include any other matter relating to the behaviour of council members considered appropriate.

This report recommends that Council support the adoption of a Behavioural Support Policy

RECOMMENDATION

The following recommendation will be presented to Council on 23 May 2023 for consideration.

THAT THE CITY FINANCE AND GOVERNANCE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Notes the requirements of 75F of the *Local Government Act 1999*, for the Council to consider if it will adopt a Council Member Behavioural Support Policy.
 2. Having met the requirement of section 75F of the *Local Government Act 1999*, supports adopting a Council Member Behavioural Support Policy
 3. Notes a workshop to develop the Council Member Behavioural Support Policy will be held in July 2023.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Enabling Priorities
Policy	The Behavioural Management Framework consists of <ul style="list-style-type: none"> • The Behavioural Standards for Council Members, determined by the Minister for Local Government • The mandatory Behavioural Management Policy • Optional Behavioural Support Policy (or policies), designed to support appropriate behaviour by council members and adopted pursuant to section 75F of the <i>Local Government Act</i>.
Consultation	If Council chooses to adopt Behavioural Support Policy, that Policy must be put out to public consultation.
Resource	Not as a result of this report
Risk / Legal / Legislative	Council is not obligated to adopt a behavioural support policy, it must, within six months after the conclusion of each periodic election: <ul style="list-style-type: none"> • if the council has one or more behavioural support policies in effect, review the operation of those policies and consider whether additional behavioural support policies should be adopted; or • consider whether it should adopt behavioural support policies.
Opportunities	A Behavioural Support Policy may specify directions relating to behaviours, set out guidelines relating to compliance with those directions and include any other matter relating to the behaviour of council members considered appropriate by the council.
22/23 Budget Allocation	Not as a result of this report
Proposed 23/24 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
22/23 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (e.g., maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

Background - Behavioural Management Framework

1. The Behavioural Management Framework (the Framework) was a key part of the recent reforms to *the Local Government Act 1999* (the Act) [Link 1](#).
2. The Framework commenced on 17 November 2022 and includes:
 - 2.1. The *prescribed* Behavioural Standards for Council Members, determined by the Minister for Local Government which apply to all council members in South Australia (section 75E of the Act).
 - 2.2. The *mandatory* Behavioural Management Policy relating to the management of the behaviour of council members and adopted pursuant to section 262B of the Act.
 - 2.3. *Optional* Behavioural Support Policy (or policies), designed to support appropriate behaviour by council members and adopted pursuant to section 75F of the Act.
3. In addition, the Behavioural Standards Panel has been formed as an independent statutory authority which has power to impose sanctions on council members who breach the legislative and policy requirements of the Framework.

Behavioural Standards for Council Members

4. The Behavioural Standards for Council Members (Behavioural Standards) are standards published by the Minister, which all members are required to observe [Link 2](#).
5. Council members must comply with the provisions of these Behavioural Standards in carrying out their functions as public officials. It is the personal responsibility of council members to ensure that they are familiar with and comply with, these Standards at all times.
6. The Behavioural Standards include:
 - 6.1. General behaviour
 - 6.1.1. Show commitment and discharge duties conscientiously.
 - 6.1.2. Act in a way that generates community trust and confidence in the Council.
 - 6.1.3. Act in a manner that is consistent with the Council's role as a representative, informed and responsible decision maker, in the interests of its community.
 - 6.1.4. Act in a reasonable, just, respectful and non-discriminatory way.
 - 6.1.5. When making public comments, including comments to the media, on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and are not those of the Council.
 - 6.2. Responsibilities as a member of Council
 - 6.2.1.1. Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.
 - 6.2.1.2. Take all reasonable steps to provide accurate information to the community and the Council.
 - 6.2.1.3. Take all reasonable steps to ensure that the community and the Council are not knowingly misled.
 - 6.2.1.4. Take all reasonable and appropriate steps to correct the public record in circumstances where the Member becomes aware that they have unintentionally misled the community or the Council.
 - 6.2.1.5. Act in a manner consistent with their roles, as defined in section 59 of the Act.
 - 6.2.1.6. In the case of the Principal Member of a Council, act in a manner consistent with their additional roles, as defined in section 58 of the Act.
 - 6.2.1.7. Use the processes and resources of Council appropriately and in the public interest.
 - 6.3. Relationship with fellow Council Members
 - 6.3.1. Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.
 - 6.3.2. Not bully other Council members.
 - 6.3.3. Not sexually harass other Council members.

- 6.4. Relationship with Council employees
 - 6.4.1. Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council employees.
 - 6.4.2. Not bully Council employees.
 - 6.4.3. Not sexually harass Council employees.
7. The Behavioural Standards are relatively high level, rather than detailing specific behavioural instructions which councils may establish themselves in 'behavioural support policy (or policies).'

Behavioural Management Policy

8. Councils will continue to have the primary responsibility for managing instances where standards of behaviour are not met. This will be continued through a requirement for councils to have a 'behavioural management policy', which sets out processes and procedures for dealing with complaints about council member behaviour.
9. Councils can determine what processes best suit their needs to manage behavioural matters. Instead of undertaking a formal 'investigation' of any complaints (which often results in high legal fees and other costs), section 262B of the Act provides significantly more detail as to what council policies may contain and clarifies that councils can deal with complaints as each council considers appropriate, such as written applications, or brief 'hearings' (subject to principles of procedural fairness).
10. Section 262C of the Act also includes a range of actions that a council can take in response to a behavioural issue. These actions include censure motions, public apologies, training, and removal from an office within council (e.g., on a committee).
11. The Local Government Association (LGA) has developed a Model Behavioural Management Policy, and transitional regulations automatically make this applicable to all councils, until such time as a council adopts its own policy.
12. As such, the LGA's policy has been incorporated into Council's Standing Orders ([Link 3](#) – Chapter 3, page 23).
13. Legislation requires councils to review the LGA's Behavioural Management Policy prior to November 2023, to either adopt it as is or modify it to suit specific requirements.
14. This timeframe will allow the Behavioural Management Policy to be operational for a year, and for any gaps or changes required to be identified.

Behavioural Support Policies

15. The Behavioural Management Framework also provides for councils to also adopt a Behavioural Support Policy.
16. Through behavioural support policies, councils may decide themselves what actions, behaviours and standards their members should adhere to. Councils may prepare and adopt behavioural support policies to support appropriate behaviour by council members and may specify directions or guidelines relating to behaviours that members must observe.
17. Behavioural support policies must not be inconsistent with the Behavioural Standards.
18. While councils are not required to have a Behavioural Support Policy, the Act requires that a council must consider whether they will have a policy or not, and what it could contain, within six months of each periodic election. This ensures that every council will have this conversation early in a new term about the standards and behaviours that they will hold themselves and their fellow members to account.

Consideration by Council

19. Section 75F provides the following in relation to the content of behavioural support policies:
 2. *A Behavioural Support Policy may—*
 - a. *specify directions relating to behaviour that must be observed by members of the council; and*
 - b. *set out guidelines relating to compliance by members with the behavioural standards and directions under paragraph and*
 - c. *include any other matter relating to the behaviour of members considered appropriate by the council.*

3. *A behavioural support policy—*
 - a. *must not be inconsistent with the behavioural standards; and*
 - b. *must comply with any requirement specified by the behavioural standards.*
 - a. *in any other case—consider whether it should adopt behavioural support policies.*
13. As per the Act, Council must consider if it should adopt a Behavioural Support Policy within six months of a periodic election.
14. It is important to note the wording of the Act does not require the council to have 'adopted' a Behavioural Support Policy within that timeframe, but rather that council considers whether it should adopt one.
15. Should Council seek to adopt a policy, the process for developing a Behavioural Support Policy may occur following this consideration and subsequent decision.
16. It is important to note that before a council adopts a Behavioural Support Policy, public consultation must be undertaken concerning the policy.
17. The LGA has prepared a Model Behavioural Support Policy ([Link 4](#)) to assist councils with considering whether a policy should be adopted.
18. The Model Policy provides an example of the kind of matters that may be included within such a policy but requires each council to consider and customise the document based on decisions regarding what is deemed necessary/appropriate to support member behaviour.
19. If Council resolves to adopt a Behavioural Support Policy now, a workshop will be scheduled for the July 2023 City Finance and Governance Committee to begin the process of determining what should be in the Policy. It is anticipated that the LGA Model Policy would be used as a base document for discussion during the workshop.
20. A draft Behavioural Support Policy will then be prepared and presented to Council prior to it being released for public consultation.

DATA AND SUPPORTING INFORMATION

Link 1 - Local Government Act

Link 2 - Behavioural Standards

Link 3 - Standing Orders

Link 4 - LGA Model Behavioural Support Policy

ATTACHMENTS

Nil

- END OF REPORT -