

# Adoption of the Behavioural Management Policy

Tuesday, 12 December 2023  
Council

Strategic Alignment - Enabling Priorities

**Program Contact:**  
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Public

**Approving Officer:**  
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## EXECUTIVE SUMMARY

After the 2022 Local Government Elections, the new behavioural standards commenced which replaced the previous code of conduct provisions.

It is mandatory for all councils to prepare and adopt a Behavioural Management Policy (Policy) in accordance with section 262B of the *Local Government Act 1999* (the Act).

The Policy has been drafted based on the Local Government Association model policy and steps out the process required if a complaint is received regarding Council Member Behaviour.

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## RECOMMENDATION

### THAT COUNCIL

1. Adopts the Council Member Behavioural Management Policy as contained in Attachment A to Item 16.2 on the Agenda for the meeting of the Council held on 12 December 2023.
  2. Approves the deletion of Chapter 3 – General Duties and Member Integrity and Behaviour from the City of Adelaide Standing Orders.
  3. Appoints the Chief Executive Officer as the Behavioural Standards Panel Contact Officer.
  4. Authorises the Chief Executive Officer to make any minor editorial and formatting changes as required to finalise the Council Member Behavioural Management Policy as contained in Attachment A to Item 16.2 on the Agenda for the meeting of the Council held on 12 December 2023.
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## IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Enabling Priorities
Policy	This Policy is part of the behavioural management framework set out in the Act. This Policy should be read in conjunction with the Council Member Behavioural Support Policy and the Council Member Staff Interaction Policy.
Consultation	Not as a result of this report.
Resource	Not as a result of this report.
Risk / Legal / Legislative	Council must prepare and adopt a policy relating to the management of behaviour
Opportunities	Not as a result of this report.
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 (eg maintenance cost)	Not as a result of this report.
Other Funding Sources	Not as a result of this report.

# DISCUSSION

1. The Behavioural Management Framework (the Framework) is a key part of the recent reforms to the Local the Act.
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.
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.
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:

### General Behaviour

- 6.1. Show commitment and discharge duties conscientiously.
- 6.2. Act in a way that generates community trust and confidence in the Council.
- 6.3. 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.
- 6.4. Act in a reasonable, just, respectful and non-discriminatory way.
- 6.5. 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.

### Responsibilities as a member of Council

- 6.6. Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.
- 6.7. Take all reasonable steps to provide accurate information to the community and the Council.
- 6.8. Take all reasonable steps to ensure that the community and the Council are not knowingly misled.
- 6.9. 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.
- 6.10. Act in a manner consistent with their roles, as defined in section 59 of the Act.
- 6.11. 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.
- 6.12. Use the processes and resources of Council appropriately and in the public interest.

### Relationships with fellow Council Members

- 6.13. Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council Members.
- 6.14. Not bully other Council Members.
- 6.15. Not sexually harass other Council Members.

### Relationships with council employees

- 6.16. Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council employees.
- 6.17. Not bully council employees.
- 6.18. Not sexually harass council employees.

7. The Behavioural Standards are relatively high level, rather than detailing specific behavioural instructions.
8. On the 17 October 2023, at the City Finance and Governance Committee (Committee), Council was presented with a Council Member Complaints Policy which would become the Policy once adopted. The Committee recommended to Council that:
  1. *Notes the review of the mandatory Behavioural Management Policy and requests administration to provide further advice at an upcoming City Finance and Governance Committee Meeting.*
9. To date, administration continues to work on providing further advice to the Committee.
10. Council is required to adopt a Policy following the Local Government Periodic Elections that deals with specific behavioural standards for Council Members. It is recommended that Council adopt the model Policy developed by the Local Government Association (LGA) until the Council Member Complaints Policy can be finalised.

### **Behavioural Management Policy**

11. The primary responsibility for managing instances where standards of behaviour are not met will remain with the Council. This will occur through a requirement for Council to have a 'behavioural management policy', which sets out processes and procedures for dealing with complaints about Council Member behaviour.
12. Council can determine the process that best suit the individual needs to manage behavioural matters. Instead of undertaking a formal 'investigation' of 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).
13. Section 262C of the Act also includes a range of actions that 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).
14. A complaint may be referred to the Behavioural Standards Panel in accordance with section 262Q of the Act.
15. Section 262Q states that:

*A complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour by a member of a council may be referred to the Panel by:*

  - *Resolution of the council; or*
  - *The principal member of the council; or*
  - *At least 3 members of the council; or*
  - *A responsible person in accordance with section 75G(5)*
16. The 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.
17. As such, the LGA's policy has previously been incorporated into Council's Standing Orders (Chapter 3, page 23).
18. By adopting a stand-alone Policy, the information contained in the Standing Orders will be deleted.

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## **ATTACHMENTS**

### **Attachment A – Council Member Behavioural Management Policy**

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