

Proposed Behavioural Standards for Council Members

Final draft - April 2022

The proposed Behavioural Standards for Council Members have been developed in preparation for the commencement of the Conduct Management Framework as part of the implementation of the *Statutes Amendment (Local Government Review) Act 2021* and associated changes to the *Local Government Act 1999*. These draft Standards have been prepared in close consultation with the Local Government Association.



The Behavioural Standards are established by the Minister for Local Government pursuant to section 75E of the *Local Government Act 1999* (the Act). These Behavioural Standards form part of the conduct management framework for council members under the Act. Further information is available at:

<https://www.agd.sa.gov.au/local-government/office-of-local-government>

Statement of Intent

Upon election, council members in South Australia undertake to faithfully and impartially fulfil the duties of office in the public interest, to the best of their judgment and abilities and in accordance with the Act. Council members are required to act with integrity, serve the overall public interest and provide community leadership and guidance.

The community expects council members to put personal differences aside, to focus on the work of the council and to engage with each other and council employees in a mature and professional manner.

Behavioural Standards

These Behavioural Standards set out minimum standards of behaviour that are expected of all council members in the performance of their official functions and duties. The Behavioural Standards are mandatory rules, with which council members must comply.

Adherence to the Behavioural Standards is essential to upholding the principles of good governance in councils.

Councils may adopt Behavioural Support Policies which, amongst other things, may include additional matters relating to behaviour that must be observed by council members. A breach of these Behavioural Standards or a council's Behavioural Support Policy:

- will be dealt with in accordance with the council's Behavioural Management Policy; and
- may be referred to the Behavioural Standards Panel in accordance with section 262Q of the Act.

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.

These Behavioural Standards are in addition to, and do not derogate from, other standards of conduct and behaviour that are expected of council members under the Act, or other legislative requirements. Conduct that constitutes, or is likely to constitute, a breach of the integrity provisions contained in the Act, maladministration, or which is criminal in nature, is dealt with through alternative mechanisms.

These Behavioural Standards are designed to ensure council members act in a manner consistent with community expectations and form the basis of behaviour management for council members.

Constructive and effective relationships between council members, council employees and the community are essential to building and maintaining community trust and successful governance in the local government sector.

Council members must:

1. General behaviour

- 1.1 Show commitment and discharge duties conscientiously.
- 1.2 Act in a way that generates community trust and confidence in the Council.
- 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.
- 1.4 Act in a reasonable, just, respectful and non-discriminatory way.
- 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.

2. Responsibilities as a member of Council

- 2.1 Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.
- 2.2 Take all reasonable steps to provide accurate information to the community and the Council.
- 2.3 Take all reasonable steps to ensure that the community and the Council are not knowingly misled.
- 2.4 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.
- 2.5 Act in a manner consistent with their roles, as defined in section 59 of the Act.

- 2.6 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.
- 2.7 Use the processes and resources of Council appropriately and in the public interest.

3. Relationship with fellow Council Members

- 3.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.
- 3.2 Not bully other Council members.
- 3.3 Not sexually harass other Council members.

4. Relationship with Council employees

- 4.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council employees.
- 4.2 Not bully Council employees.
- 4.3 Not sexually harass Council employees.

Definitions

For the purposes of these Behavioural Standards, a Council's Behavioural Support Policy (if adopted) and a Council's Behavioural Management Policy, the following definitions apply:

An elected member will be considered to **bully** other Council members or Council employees if:

the Council member either, as an individual Council member or as a member of a group:

- a) repeatedly behaves unreasonably towards another Council member, or employee; and
- b) the behaviour could reasonably be considered to be distressing, victimising, threatening or humiliating.

Note -

If this behaviour adversely affects the health and safety of another council member or council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

An elected member will be considered to **sexually harass** other Council members or Council employees if:

the Council member either, as an individual Council member or as a member of a group:

- a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another Council member, or employee (the person harassed); or
- b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed,

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated.

Note -

If this behaviour adversely affects the health and safety of another council member or council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

Conduct of a sexual nature includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

Council employees include volunteers, persons gaining work experience and contractors.

The following behaviour **does not** constitute a breach of these Standards:

- robust debate carried out in a **respectful** manner between Council Members; or
- A reasonable direction given by the Presiding Member at a council meeting, council committee meeting or other council-related meeting (such as a working group or an information or briefing session); or
- A reasonable direction carried out by the Council CEO/responsible person pursuant to section 75G of the Act in relation to the behaviour of a Council Member that poses a risk to the health or safety of a council employee.

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