

Resolution of External Grievances and Complaints Administrative Procedure

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1 Administrative procedure purpose

The Resolution of External Grievances and Complaints Administrative Procedure has been developed to establish an agreed process for handling complaints against Council Employees for alleged breaches of the Code. This process applies when the Council receives a complaint against a Council Employee under the Code.

It is acknowledged that any legislative requirement which affects the Council will take precedence over Council's policies and procedures.

2 Introduction

Section 110 of the *Local Government Act 1999* provides that the Governor may, by regulation, prescribe a code of conduct to be observed by employees of the Council. Accordingly, a Code of conduct for employees is prescribed in Schedule 2A of the Local Government (General) Regulations 2013. The prescribed code governs the conduct of employees in receipt of gifts and benefits.

The City of Onkaparinga has also developed a code of conduct which sets out broader behavioural expectations for all employees. Both of these codes are to be read together and will be considered as one for the purposes of this Procedure. In this procedure, the codes will be referred to collectively as 'the Code'. Employees of the City of Onkaparinga must adhere to the Code in carrying out their functions as public officials.

Criminal, corruption or maladministration matters are not covered by the code; however, are subject to specific legislation and will be referred to the relevant authorities.

3 Scope

This procedure applies to complaints relating to conduct from external parties against Council Employees.

This procedure excludes complaints lodged by persons employed by the Council and complaints lodged against the CEO, Mayor or an Elected Member. This procedure also excludes complaints against a decision made by the Council or a Council Employee. Section 270 of the *Local Government Act 1999* requires Council to maintain policies for the management of complaints against employees and Council decisions. Complaints against Council decisions are managed under the Internal review of Council decisions (s270) procedure. Internal complaints are managed under the Resolution of Internal Grievances and Complaints Administrative Procedure. Complaints against the CEO are managed under the Chief Executive Officer Code of Conduct Complaint Handling Administrative Procedure.

4 Definitions

Act	means the <i>Local Government Act 1999</i> (SA).
Affected person	means a person other than the Complainant or Subject Employee whom the Investigator makes adverse comments against, implicates in any misconduct or assigns any blame.
Appropriate authorities	means an authority that receives disclosure of public interest information, in particular: <ul style="list-style-type: none">• a Minister of the Crown• a member of the South Australia Police - where the information relates to an illegal activity• the Auditor-General – where the information relates to the irregular or unauthorised use of public money• the Ombudsman – where the information relates to a public officer• the Office for Public Integrity• the Independent Commissioner Against Corruption• any other person to whom, in the circumstances of the case, it is reasonable and appropriate to make the disclosure.
Business day	means a day that is not a Saturday, Sunday or public holiday in South Australia.
Code	means jointly the Code of Conduct for Employees published in Schedule 2A of the Local Government (General) Regulations 2013 and the City of Onkaparinga Code of Conduct for Council Employees, as amended from time to time.
Complaint	means an allegation of conduct on the part of a Council Employee acting in their official capacity that at face value, if proven, would constitute a breach of the standards of conduct prescribed under the Code; and can take the form of either a: <ul style="list-style-type: none">• letter• email or• duly completed (prescribed) form under the Procedure but must in every instance, be in writing.
Complainant	means the person who makes a Complaint.

- Conduct reviewer** refers to the legal practitioner chosen from Council's panel of legal practitioners responsible for the investigation of the Complaint.
- Corruption in public administration** means conduct as defined by the *Independent Commissioner Against Corruption Act 2012* that constitutes an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
- bribery or corruption of public officers
 - threats or reprisals against public officers
 - abuse of public office
 - demanding or requiring benefit on basis of public office
 - offences relating to appointment to public office
 - an offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence
 - an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence
 - any offence, including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*, committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence
 - any of the following in relation to an offence referred to in a preceding point:
 - aiding, abetting, counselling or procuring the commission of the offence
 - inducing, whether by threats or promises or otherwise, the commission of the offence
 - being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence
 - conspiring with others to effect the commission of the offence.

Council	means the Corporation of the City of Onkaparinga established pursuant to the Act.
Employee	means a person employed directly by the Council and includes trainees, work experience students, volunteers and labour-hire staff whether they are working in a full-time, part-time or casual capacity.
Frivolous	means a complaint which: <ul style="list-style-type: none"> • cannot be successfully argued because it is based on inaccurate facts, an error in law or outdated practices, or • has no reasonable prospect of success.
ICAC Act	is the <i>Independent Commissioner Against Corruption Act 2012</i> (SA).
Internal Review Officer	means an Employee of the City of Onkaparinga nominated by the CEO (or nominated delegate) to conduct the preliminary assessment of a Complaint.
Maladministration in public administration	is defined by the ICAC Act to mean: <ul style="list-style-type: none"> • conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources • conduct of a public officer involving substantial mismanagement in, or in relation to, the performance of official functions • conduct resulting from impropriety, incompetence or negligence.
Misconduct in public administration	is defined by the ICAC Act to mean: <ul style="list-style-type: none"> • contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer • other misconduct of a public officer while acting in his or her capacity as a public officer.
Office for Public Integrity (“OPI”)	means the office established under the ICAC Act that has the function to: <ul style="list-style-type: none"> • receive and assess complaints about public administration from members of the public

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- receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers
- make recommendations as to whether and by whom complaints and reports should be investigated, and
- perform other functions assigned to the Office by the Commissioner.

Ombudsman	means the Office of the Ombudsman established pursuant to the <i>Ombudsman Act 1972 (SA)</i> .
Onkanet	means the Council’s local intranet site.
Preliminary Assessment Report	means the report produced by the Internal Review Officer at the conclusion of the preliminary assessment.
Public administration	is defined in section 4 of the ICAC Act and means, without limiting the acts that may comprise public administration, an administrative act within the meaning of the <i>Ombudsman Act 1972 (SA)</i> taken to be carried out in the course of public administration.
Public Officer	means: <ul style="list-style-type: none"> • an elected member of the Council, including the Mayor • an independent member of the Council's Development Assessment Panel • an Independent member of a Council Committee or a subsidiary of the Council, and • an Employee or Officer of the Council.
Subject employee	is the Council Employee whose conduct is the subject of investigation under the Code and may include more than one employee. Reference to the singular includes the plural.
Trivial	means a complaint of little or no importance, where the Assessor considers it unreasonable to dedicate resources to an investigation of the matter.
Vexatious	means a Complaint which is from a Complainant who has consistently, over a period of time, complained about minor matters or the same matter, which have previously been dealt with and no new information has been provided by the Complainant and/or is considered by the Assessor to be mischievous, without sufficient grounds or serving only to cause annoyance or disrepute.

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5 Complaint management

There are four steps in the management of a Complaint under the Code:

Stage 1 - Receipt of the Complaint and triage

Stage 2 - Preliminary Assessment

Stage 3 - Investigation

Stage 4 - Resolution

5.1 Form of the Complaint

5.1.1 A Complaint must:

- be in writing to comply with the definition of a Complaint (Complaint form available at Appendix 1)
- be addressed to the CEO
- be specific and provide as much detail as possible
- provide the name of the Council employee who has allegedly breached the Code
- identify the provisions of the Code which are alleged to have been breached
- provide as much supporting evidence as possible to assist the investigation
- include details of a proposed a remedy.

5.1.2 Complainants can, at any time, take the alternative option of lodging the Complaint with the OPI or the Ombudsman, either of whom will direct the Complaint in accordance with the ICAC Act.

5.2 Time constraint

5.2.1 A Complaint must be made within three months of:

- the alleged conduct occurring, or
- the Complainant becoming aware of the alleged conduct.

5.2.2 A Complaint made after three months from the date of the conduct occurring may only be accepted if there are compelling grounds for the matter to be dealt with under the Code pursuant to the Council's procedures.

6 Receipt of complaint (Stage 1)

On receipt of a complaint:

- the CEO must, within five (5) business days of receiving a Complaint:
 - acknowledge receipt of the Complaint in writing to the Complainant.

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- refer the Complaint to the Director Corporate.
- the Director Corporate must, within five (5) business days of receiving a Complaint complete the Council's Triage process to determine the appropriate method for dealing with the Complaint.

6.1 Triage

6.1.1 Triage is a process of assessing the elements of a complaint and determining the immediate actions to be taken by the Council. The purpose of Triage is to:

- determine if at face value, the complaint satisfies paragraph 5.1 (Form of the Complaint) and 5.2 (Time constraint)
- If the Complaint does not satisfy paragraph 5.2 (Time constraint), determine if at face value, compelling grounds exist to proceed with an investigation
- determine the appropriate complaint handling procedure/s for the investigation of the Complaint
- determine if the complaint can be resolved informally without an investigation
- determine whether it is appropriate for a Council employee to carry out a Preliminary Assessment, or whether the Complaint should be immediately referred to an external Conduct Assessor.

6.1.2 The Director Corporate will facilitate a triage meeting. The meeting will be attended by suitably qualified and experienced employees; including:

- Director Corporate
- Director of Subject Employee
- Manager Governance and/or their delegates
- Manager People and Culture and/or their delegates.

6.1.3 If, on the basis of the information received from the Complainant, the triage process determines that the conduct should be reported to an external agency then the Director or CEO will make such a report.

6.1.4 If, on the basis of the information received from the Complainant, the triage process determines that the complaint may be better resolved informally, the Director may instruct the Internal Review Officer to contact the Complainant with a view to resolving the Complaint through discussion, mediation, apology or other informal means. If such action is successful, an investigation in accordance with this procedure will not be required.

6.2 Case management

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- 6.2.1 The Council has 5 complaint handling procedures:
- Internal review of Council decisions (s270) Administrative Procedure
 - Procedure for Investigating Complaints under the Code of Conduct for Council Members (elected members)
 - Chief Executive Officer Code of Conduct Complaint Handling Administrative Procedure
 - Resolution of External Grievances and Complaints Administrative Procedure
 - Resolution of Internal Grievances and Complaints Administrative Procedure.
- 6.2.2 A Complaint may be assessed under more than one procedure, particularly if the Complaint is complex or contains allegations of more than one type of misconduct.
- 6.2.3 Where a Complaint is assessed under more than one procedure, each complaint management process will run concurrently and in accordance with the relevant procedure.
- 6.2.4 If the Complaint relates to the conduct of a Director, all facets of the complaint will be immediately referred to an external Conduct Assessor.
- 6.2.5 If the Complaint refers to the conduct of an individual who would normally attend a Triage meeting in accordance with paragraph 5.5.2, that person and any persons who report directly or indirectly to the person, shall be excluded from the Triage and complaint management process.
- 6.2.6 If the Complaint cannot be adequately addressed following the exclusion of persons in accordance with paragraph 6.2.5, the Complaint will be immediately referred to an external Conduct Assessor.

7 Preliminary Assessment (Stage 2)

7.1 Preliminary Assessment

- 7.1.1 The purpose of the Preliminary Assessment is to:
- assess at face value the Complaint and any evidence provided with the complaint
 - assess whether an investigation is required or whether there is a more suitable resolution available
 - provide recommendations for the resolution of the Complaint.
- 7.1.2 In forming the recommendation/s for the Director Corporate, the Internal Review Officer will assess whether the Complaint:
- is Trivial, Frivolous, Vexatious or has not been made in good faith

- relates to behaviour which, if substantiated, would contravene the Code, or
 - relates to reasonable suspicion of Corruption, systemic Misconduct, systemic Maladministration or criminal conduct.
- 7.1.3 The Preliminary Assessment will be conducted in accordance with the requirements of procedural fairness. It will involve a reasonable assessment of the evidence submitted regarding the alleged breach, taking into account the relevant circumstances prevailing at the time of the alleged breach and any other factors deemed relevant to making a fair and reasonable judgement about the matter.
- 7.1.4 The Internal Review Officer will be responsible for:
- undertaking the Preliminary Assessment of the Complaint
 - liaising with the Director Corporate as to the status of the Complaint
 - Preparing the Preliminary Assessment Report
 - on behalf of the CEO, communicating with both the Subject Employee and the Complainant as to the status of the Complaint (subject to the Complaint not being related to Corruption, Maladministration or criminal conduct).
- 7.1.5 Within five (5) business days of receiving the Complaint, the Internal Review Officer must confirm receipt of the Complaint to the Complainant and Subject Employee in writing. The notification must include:
- the date the Complaint was received
 - the date/s of the alleged incident/s
 - the name of the Complainant and Subject Employee
 - a summary of the allegations
 - a brief explanation of the investigation process
 - a copy of the procedure/s under which the Complaint is to be investigated.
- 7.1.6 However, the Internal Review Officer must withhold notification to the Subject Employee in the following circumstances:
- where it is alleged or suspected that the complaint relates to corruption, systemic misconduct or systemic maladministration
 - where:
 - the complaint relates to conduct which occurred more than 12 weeks prior to the date the complaint was submitted
 - there is no ongoing contact between the Complainant and the Subject Employee
 - the Subject Employee is not, and is unlikely to become, aware of the Complaint

- it is considered that notifying the Subject Employee would cause undue hardship or stress upon the Subject Employee
- where it is reasonably suspected that the Subject Employee may interfere with the investigation.

7.1.7 Should the Complaint not satisfy the requirements under paragraph 5.1.1 (Form of the Complaint), the Internal Review Officer may request the Complainant re-submit the Complaint so that it complies with paragraph 5.1.1.

7.2 Preliminary assessment criteria

7.2.1 In undertaking the Preliminary Assessment of a Complaint, the Internal Review Officer must take the following into consideration:

- whether the Complaint discloses clear and obvious evidence of a breach of the Code
- whether the Complaint raises issues that would be more appropriately dealt with by another agency or body
- whether there is, or was, an alternative and satisfactory means of redress available to the Complainant in relation to the conduct complained of, such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology
- whether the issue(s) giving rise to the Complaint have previously been addressed or resolved
- whether the conduct complained of forms part of a pattern of conduct
- whether there were mitigating circumstances giving rise to the conduct complained of
- the seriousness of the alleged conduct
- the significance of the alleged conduct or the impact for the Council
- how much time has passed since the alleged conduct occurred
- such other considerations that the Internal Review Officer considers may be relevant to the preliminary assessment of the Complaint.

7.3 Preliminary Assessment Report

7.3.1 Within ten (10) business days of receipt of the Complaint, the Internal Review Officer must provide the Director Corporate with a Preliminary Assessment Report which will include the following:

- a summary of the complaint
- a summary of the provisions of the Code which would be contravened if the alleged conduct is substantiated.

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- a summary of the key points considered as part of the Preliminary Assessment
- an assessment that the conduct:
 - is trivial, frivolous, vexatious or has not been made in good faith, or
 - relates to behaviour which, if substantiated, would contravene the Code, or
 - relates to reasonable suspicion of Corruption, systemic Misconduct, systemic Maladministration or criminal conduct.
- a recommendation of the actions that should be taken by the Council to resolve the Complaint. Such recommendations may include, but are not limited to:
 - dismissal of the complaint on the basis that it is trivial, frivolous, vexatious or has not been made in good faith
 - attempting to resolve the complaint through an alternative resolution which may include but is not limited to; explanation, counselling, training, mediation, informal discussion, negotiation or apology
 - formal investigation of the Complaint by a Conduct Reviewer if no other suitable resolution has been identified.

7.3.2 The Director Corporate will consider the Preliminary Assessment Report and will provide, in writing, a determination within three (3) business days to advise if they will, or will not be adopting the Internal Review Officer's assessment and/or recommendation(s) and to provide any other instructions relating to the Internal Review Officer's handling of the Complaint.

7.3.3 The Director Corporate is not obliged to adopt the Internal Review Officer's assessment or recommendation(s) as set out in the Preliminary Assessment Report.

7.4 Determination of Trivial, Frivolous, or Vexatious Complaints

7.4.1 If the Director Corporate determines that the Complaint is Trivial, Frivolous, Vexatious or has not been made in good faith, or otherwise determines to dismiss the Complaint, the Internal Review Officer will, within five (5) business days of receiving confirmation of the determination in accordance with paragraph 7.3.3, confirm in writing to the Complainant and the Subject Employee that the Council has decided not to enquire further into the matter and provide a summary of the reasons for its decision.

7.4.2 The Complainant and Subject Employee will not be provided with a copy of the Preliminary Assessment Report but will be provided with the reasons for the determination/s and a summary of the considerations taken into account during the Preliminary Assessment.

7.5 Determination of conduct which contravenes the Code

- 7.5.1 If the Director Corporate determines that the Complaint relates to conduct which contravenes the code, a decision is made as to whether an investigation is required and by whom, or whether an alternative resolution could be recommended.
- 7.5.2 If an investigation is required the Internal Review Officer must, within five (5) business days of receiving confirmation of the determination in accordance with paragraph 7.3.3, confirm in writing to the Complainant and the Subject Employee that the Council will be referring the matter to a Conduct Assessor.
- 7.5.3 The Complainant and Subject Employee will not be provided with a copy of the Preliminary Assessment Report but will be provided with the reasons for the determination/s and a summary of the considerations taken into account during the Preliminary Assessment.

7.6 Determination of conduct which relates to reasonable suspicion of Corruption, systemic Misconduct, systemic Maladministration or criminal conduct

- 7.6.1 The Internal Review Officer will immediately report any potential indication of Corruption, systemic Misconduct, systemic Maladministration or criminal conduct to the Director Corporate.
- 7.6.2 Where the Director Corporate believes there is reasonable suspicion of Corruption, systemic Misconduct, systemic Maladministration or criminal conduct, the Director will immediately make a report to the relevant Authority.
- 7.6.3 The Complaint and its substance will be kept strictly confidential until:
- the Ombudsman has issued a final report which may be considered by the Council and/or has stated the report will become a public document.
 - the OPI or ICAC issues a public statement, requires it to be considered by the Council or gives permission for publication of its findings in relation to a matter within its jurisdiction to be made public.
- 7.6.4 If the Director Corporate determines that the Complaint will be referred to an external authority, the Internal Review Officer must, within five (5) business days of receiving confirmation of the determination, confirm in writing to the Complainant that the matter has been referred to an external authority for investigation. To protect the integrity of the external investigation, the Complainant will not be provided with the reasons for the determination/s nor the considerations taken into account during the Preliminary Assessment.

- 7.6.5 Where the Complaint is referred to an external authority, the Subject Employee must not be advised of the existence of the Complaint nor any allegations made against the Subject Employee. This is to ensure that the investigations conducted by the relevant Appropriate Authorities will not be compromised.

8 Investigation (Stage 3)

8.1 Referral to a Conduct Assessor

8.1.1 If the Director of Corporate determines that an investigation is required, or in any of the circumstances which require immediate referral to a Conduct Assessor, the Director of Corporate will appoint a Conduct Reviewer who may be either an internal or external independent party.

8.1.2 The Conduct Reviewer will only be provided with:

- a copy of the Complaint
- any evidence, statements or other materials which were attached to the Complaint by the Complainant
- the contact details of the Complainant (if known) and the Subject Employee.

8.1.3 The Conduct Reviewer will not be provided with a copy of the Preliminary Assessment Report.

8.2 Written Notice of Investigation

8.2.1 The Conduct Reviewer must, at the outset of their investigation, provide a written Notice of Investigation to the Subject Employee and the Complainant together with a copy of the Complaint and any relevant supporting documentation; within five (5) business days of their appointment. The Notice of Investigation must:

- disclose the allegations against the Subject Employee,
- advise the parties of the relevant provisions of the Code or relevant provisions of legislation that apply to the alleged conduct;
- advise of the process to be followed in investigating the matter, together with an indicative timeline; and
- provide the Conduct Reviewer's contact details.

8.2.2 The Conduct Reviewer may request the Subject Employee or Complainant to provide written submissions to clarify, explain or add additional information prior to the commencement of investigation meetings.

8.3 Investigation meetings

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- 8.3.1 The Conduct Reviewer must invite the Subject Employee and the Complainant to separately attend a meeting in relation to the matter within a reasonable period specified by the Conduct Reviewer.
- 8.3.2 The Conduct Reviewer must not unreasonably refuse a request by the Complainant or Subject Employee to have a support person present at the investigation meeting. If necessary, the Conduct Reviewer will make reasonable adjustments to the time of the meeting to accommodate a support person. The support person must not speak on behalf of the Subject Employee or Complainant, or otherwise interfere with, or disrupt, the meeting.
- 8.3.3 The Conduct Reviewer may invite any other relevant parties to separately attend a meeting in relation to the matter within a reasonable period specified by the Conduct Reviewer.
- 8.3.4 In deciding to conduct interviews with other parties, the Conduct Reviewer will consider the impact the interviews may have upon the Subject Employee, including, but not limited to:
- the impact that additional interviews may have upon the Subject Employee's ongoing internal and external working relationships;
 - the impact that additional interviews may have upon the Subject Employee's working environment.
- 8.3.5 If an interview with an additional party is likely to have an adverse impact upon the Subject Employee, the Conduct Reviewer will only proceed if the interview is likely to provide material evidence.

8.4 Evidence collection

- 8.4.1 The Conduct Reviewer may collect additional written submissions from the Complainant or Subject Employee and/or any relevant evidence from any other relevant source during the course of the investigation.
- 8.4.2 If the Conduct Reviewer requires access to additional documents or resources which are held by the Council as part of the investigation, they must request access to such documents in writing. All requests will be addressed to the Director Corporate.
- 8.4.3 The Director Corporate and City Services will provide the requested documents or evidence without undue delay.

8.5 Initial Investigation Report

- 8.5.1 The Conduct Reviewer must produce an Initial Investigation Report which provides a summary of the complaint and the factors which contributed to the complaint, summarises the evidence collected and provides an indication of whether the complaint is likely to be substantiated.

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- 8.5.2 The Conduct Reviewer will provide the Initial Investigation Report to the Subject Employee and the Complainant. Both parties will be invited to make any further written submissions within five (5) business days of receiving the Initial Investigation Report (or such other reasonable period specified by the Conduct Reviewer).
- 8.5.3 Where the Conduct Reviewer proposes to make adverse comment about any other person (Affected Person) in the Initial Investigation Report, they must also provide the Affected Person with relevant extracts of the Initial Investigation Report containing such comment, and invite the Affected Person to make a written submission in relation to those comments within five (5) business days of the production of the Initial Investigation Report (or such other reasonable period specified by the Conduct Reviewer).
- 8.5.4 Where the Subject Employee, the Complainant or an Affected Person fails to make a written submission in relation to the Initial Investigation Report within the period specified by the Conduct Reviewer, the Conduct Reviewer may proceed to prepare and issue a Final Report without receiving such submissions.
- 8.5.5 The Conduct Reviewer may accept in only the most exceptional of circumstances, written submissions in connection with the Complaint outside the period specified by the Conduct Reviewer at any time, prior to issuing their Final Investigation Report. The Conduct Reviewer's reasons for acceptance of the late written submissions must be included in the Initial Investigation Report.
- 8.5.6 Where an Conduct Reviewer identifies further separate possible breaches of the Code that are not related to, or arise from, the Complaint and relate to Corruption, systemic Misconduct, systemic Maladministration or criminal conduct, they are to report the matters separately in writing to the Director Corporate or the CEO.

8.6 Final Investigation Report

- 8.6.1 The Conduct Reviewer will prepare a Final Investigation Report in relation to the Complaint, after finalising their consideration of the responses received in accordance with paragraph 8.5 (Initial Investigation Report).
- 8.6.2 The Conduct Reviewer will provide the Final Investigation Report to the Subject Employee and invite the Subject Employee to make any final written submissions within five (5) business days (or such other reasonable period specified by the Conduct Reviewer).
- 8.6.3 If no final written submissions are received within five (5) business days (or such other reasonable period specified by the Conduct Reviewer), the Final Investigation Report must be provided to the Director Corporate.

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- 8.6.4 If the Subject Employee provides final written submissions, the Conduct Reviewer, after having considered the final written submissions, must provide the Director Corporate with the Final Investigation Report.
- 8.6.5 The Final Investigation Report provided to the Council must include any final written submissions provided by the Subject Employee as an Appendix to the Final Investigation Report.
- 8.6.6 The Final Investigation Report must:
- make findings of fact in relation to the matter investigated
 - make a determination that the conduct investigated either:
 - constitutes a breach of the Code or relevant legislation, or
 - does not constitute a breach of the Code or relevant legislation.
 - provide reasons for the determination
 - provide recommendations for an appropriate resolution of the Complaint.

9 Final Determination (Stage 4)

- 9.1.1 The Director Corporate will review the Final Investigation Report and will, within five (5) business days, advise the Complainant and the Subject Employee of the outcome of the complaint in writing.
- 9.1.2 The Complainant and Subject Employee will not be provided with the Final Investigation Report but will be provided with the reasons for the determination/s and a summary of the considerations taken into account in arriving at the Final Determination.
- 9.1.3 If the Final Investigation report determines that the Subject Employee has engaged in Misconduct, the matter will be referred to the Council's internal disciplinary procedure. Internal disciplinary processes are private. The Complainant will not be advised of the commencement or outcome of any internal disciplinary process.
- 9.1.4 The Director Corporate will determine the most appropriate actions for the resolution of the complaint. In making a determination, the Director will consider the outcome of the Complaint and the Complainant's requested remedy.

10 Appeals

- 10.1.1 In the event that the Complainant or Subject Employee disagrees with the Final Determination, either party may write to the CEO to request a review of the determination.

- 10.1.2 The CEO will, within ten (10) business days, review the Final Investigation report and the Final Determination and either confirm or amend the Final Determination.
- 10.1.3 The CEO will not accept any further submissions from the parties, unless there are exceptional and compelling reasons to accept such submissions.
- 10.1.4 The CEO will not reinvestigate the matter, except where it is clear the investigation has relied on inaccurate facts or assumptions, and such errors have materially altered the outcome of the investigation.
- 10.1.5 The CEO will, within five (5) business days of reviewing the Final Investigation Report and Final Determination, advise the parties if the Final Determination has been confirmed or amended, and will provide reasons for the decision.
- 10.1.6 If following the CEO's review the Complainant or Subject Employee disagrees with the Final Determination, it is open to either party to refer the matter to the Ombudsman for review.

11 Relevant legislation and references

Local Government Act 1999 (SA)

Local Government (General) Regulations 2013

Independent Commissioner Against Corruption Act 2012 (SA)

Ombudsman Act 1972 (SA)

Code of conduct for employees (Schedule 2A of the Local Government (General) Regulations 2013)

City of Onkaparinga Code of Conduct

12 Document control

Author (to whom changes are to be recommended):			
Position		Name	
Manager People & Culture		Jordan Littlefair	
Stakeholders (audience – engagement groups):			
All City of Onkaparinga employees and workers			
Reviewed by:			
Position		Name	Date reviewed
HR Business Partner		Madeline Cracknell	01/03/2021
Manager Culture and People		Jessica Tucker	20/08/2018
Director Corporate		Alison Hancock	27/08/2018
Approved by (document owner):			
Position / Group	Name	Approval date	Approval ECM number
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Current version:			
Current version number	Release date	Review cycle	
V 2.0	01/03/2021	Review every 3 years from the Approval date Risk calculation: Consequence rating- Medium Likelihood rating- Medium Overall risk rating- Medium	
History:			
Date	Author	Version	Nature of change
30/08/2018	Jordan Littlefair	V 1.0	New document
Related documents: (internal documents that need to be reviewed when this document is amended)			

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Title of document	Document number
Internal review of Council decisions (s270) Administrative Procedure Procedure for Investigating Complaints under the Code of Conduct for Council Members Chief Executive Officer Code of Conduct Complaint Handling Administrative Procedure Resolution of Internal Grievances and Complaints Administrative Procedure	
Document location:	
Published location	Original in ECM
Onkanet and public website	

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Appendix 1 - Formal Written Complaint Form

COMPLAINANT DETAILS	
Title:	
Given Name:	
Family name:	
Street Address:	
Postal Address: (if different to street address)	
Contact	
Mobile Number:	
Email Address:	
SUBJECT EMPLOYEE DETAILS	
Given Name:	
Family name:	
Please highlight the part(s) of the Code to which the Complaint relates:	Comments:
Details of the Complaint: (attach additional pages if required)	Date/s of the alleged incident:
	Location/s of the alleged incident:

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