



# **ATTACHMENTS**

**UNDER SEPARATE COVER**

**Ordinary Council Meeting**

**21 May 2019**



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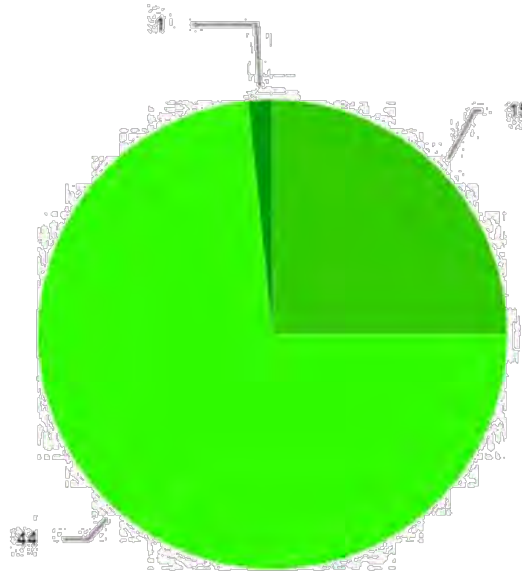
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**2018-2022 Delivery Program**  
**Quarterly Delivery Program Review**  
**Quarter 3 of the 2018-2019 reporting year as at**  
**31 March 2019**



## Action status snapshot as at 31 March 2019



- 44 actions or 73.33% are progressing
- 15 actions or 25% have an ongoing commitment
- 1 action or 1.67% has been completed

**THEME 1 - OUR COMMUNITY**

**STRATEGY 1 - TO LIVE IN AN INCLUSIVE, TOLERANT AND HEALTHY COMMUNITY WHICH DEMONSTRATES A POSITIVE ATTITUDE**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
<p>ACTION 1 - Develop relationships with both local and regional communities fostering a healthy and community attitude</p>	<p>The number of items broadcast for each reporting period with cumulative totals combined along with available web page and Facebook statistics. In 2020 the community survey will measure success since the 2016 survey.</p>	<p>Regular media items broadcast to the community.</p>	<p>As of 31 March 2019 - At the end of the reporting period Council published 18 media releases (there were 24 for the last reporting period) for public information; for the month of January there were 5 releases, February there were 5 releases and during March there were 8 releases.</p> <p>Council's website continues to be a growing point of reference with the media releases landing page viewed 263 times (there were 142 views for the last reporting period) with the website having 14,911 views compared to 14,379 views for the previous reporting quarter.</p> <p>Social media interaction is increasing with Council's Facebook page publishing 151 items (there were 200 postings for the last quarter) including media releases, general activities, general photos, events, as well as the sharing of information and providing urgent notifications to the community. The 151 Facebook posts have</p>	<p>Communications Officer</p>	<p>Ongoing commitment</p>	<p>100%</p>

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			engaged with 19,101 unique users (18,795 last quarter) with comments, post likes and posts being shared.			
ACTION 1 - Develop relationships with both local and regional communities fostering a healthy and community attitude	Details of engagement opportunities for each reporting period with cumulative totals.	Number of formal Councillor and Senior Staff engagement opportunities.	As of 31 March 2019 - Council organised and participated in various activities and events during the reporting period to engage with the community. Councillors and senior staff took part in the annual Listening posts held at Grong Grong, Binya, Sandigo and Narrandera where the community were invited to come along and voice any issues, raise concerns or promote ideas for Council to consider. The 2018-2019 financial year has many ongoing projects and the community has been heavily involved such as Local Artist Workshops, Youth Group Workshops and School visits. Council's Road Safety Officer has overseen training days, held a competition through local businesses and a competition for youth - all focused on Road Safety Awareness. The Economic Development department formed a Solar Farm Reference Group for business and community representatives to best utilise local enterprise during construction of the impending solar farms.	Communications Officer	Ongoing commitment	65%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Develop relationships with both local and regional communities fostering a healthy and community attitude	Proactive committees with meetings conducted as per terms of reference and held as scheduled. Minutes of Committees made available to Council and the community.	Proactive S.355 Committees with the monitoring of outcomes achieved and compliance with the Local Government Act, 1993.	As of 31 March 2019 - Committees have now conducted their initial meetings and elected Chairpersons; the development of budgets to align to outcomes contained within the Community Strategic Plan is complete and are included within the 2019-2020 draft budget and the Council Operational Plan deliberations.	Deputy GM Corporate & Community	Progressing	80%
ACTION 2 - Continue with strategic advocacy for the delivery of integrated health and wellbeing programs	Details of advocacy efforts during the reporting period and outcomes.	Details of the number of meetings held and details of outcomes from these meetings.	As of 31 March 2019 - The General Manager has attended meetings with Murrumbidgee Local Health District lobbying for better and more accessible services. The General Manager has also met with the Doctor supervising the Aboriginal Health Services in the Riverina to discuss outreach services for the Shire.	General Manager	Progressing	75%
ACTION 3 - Continue positive interactions with the Narrandera Interagency also the Aboriginal representative bodies within the	Number of meetings attended and outcomes from the meetings.	Where possible attend meetings with the outcome being stronger links for inclusiveness in service planning and delivery.	As of 31 March 2019 - All meetings of the Interagency Group are co-ordinated by the Community Development Library Manager (CDLM) with reminders and agendas forwarded to group members; the CDLM also circulates information from and to the group via an e-mail list.	Community Development (including Library) Manager	Progressing	50%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
community			Meetings for 2019 have been set for the first Wednesday of nominated months with that day being the preferred result of a Doodle Poll circulated to all list members.			
ACTION 4 - Implementation and monitoring of the Positive Aging Strategy & Disability Inclusion Action Plan	Details of progressive achievements measured against the relevant plan.	Documented achievements arising from both the Positive Aging Strategy and the Disability Inclusion Action Plan.	As of 31 March 2019 - Council continues to lobby for increased and improved services for our aged and disabled residents. Council ran an extensive program of Seniors Festival activities during the reporting period; as well as outings and events activities were co-ordinated to meet some of the goals of the (DIAP) Disability Inclusion Action Plan and the Positive Aging Strategy. Council partnered with Murrumbidgee Local Health District and Narrandera Lions club for an early morning Tai Chi class with a hearty breakfast for Brekkie at Brewery Flat. Aqua Aerobics and a morning tea were held at Barellan which was a joint project with the managers at Barellan Pool; also a Low Impact Circuit Training event was managed by Narrandera Bidgee Boxing. Narrandera Library sourced funding through Telstra & State Library of NSW to run a 10 session Tech Savvy Seniors Program that began during the Seniors Festival; further refresher sessions will be run at a later date for	Community Development (including Library) Manager	Progressing	60%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			existing and new participants.			
ACTION 5 - Transport options are available to identified members of the community	The number of clients provided with community transport during the reporting period.	Details of the number of clients utilising the service and cumulative totals categorised as Aged, Transport Disadvantaged and Aboriginal.	As of 31 March 2019 - Narrandera Leeton Community Transport had provided 2,798 trips to residents of the Narrandera and Leeton Shires. Of the 2,798 trips 780 trips were delivered to those who are transport disadvantaged and 2,012 were delivered to residents aged 65 years or over. A further 428 trips were delivered to either NDIS participants, allied health services, non-emergency health related transport or through taxi vouchers or brokerage agreements. 417 of these trips were delivered to residents who identify as Aboriginal or Torres Strait Islander.	Community Transport and Home Support Manager	Ongoing commitment	75%
ACTION 6 - Information about community services that are accessible within the Shire to be broadcast through various means	The currency and accuracy of information available to the community also the number of website page hits and Facebook page likes.	Current information delivered through traditional print material and also Council social media opportunities.	As of March 31 2019 - The Narrandera Shire Council Facebook page published 2 posts relating to the Community Transport and Home Support Programs; both posts were advising the community of the temporary closure of the Leeton office due to stormwater damage, the posts reached a combined total of 4,625 users. The Community Services page on Council's website had 138 page visits with the Commonwealth Home Support Programs page receiving 25 page visits and the Community	Community Transport and Home Support Manager	Ongoing commitment	75%



ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			Support Services page receiving 67 page visits.			
ACTION 7 - Where possible ensure socially disadvantaged members of the community have access to or are advised of how services can reduce their isolation	The number of persons that have been assisted with social support during the reporting period who may have been referred through the My Aged Care portal or NDIS planners.	Through other activities of Council such as Ageing, Disability and Home Care identify members of the community where social isolation may be an issue.	As of March 31 2019 - Narrandera Leeton Social Support provided 460 hours of Social Support and 48 hours of Respite to 42 individual clients during the reporting period. Of these 460 hours 13 hours were provided to one NDIS client, the remaining clients were all referred through the My Aged Care portal. Activities during these hours range from home visits with clients, social outings, assistance with the running of errands and social bus trips.	Community Transport and Home Support Manager	Ongoing commitment	75%

**STRATEGY 2 - TO ADVOCATE FOR QUALITY EDUCATIONAL AND CULTURAL OPPORTUNITIES**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Continued strategic advocacy for strengthening of the Narrandera centres of learning	When required details of advocacy efforts.	Outcomes of advocacy efforts for Narrandera TAFE as well as early childhood centres to secondary schools.	As of 31 March 2019 - The General Manager and executive staff continue to liaise with Narrandera Tafe and Narrandera High School on the provision of courses and the placement of trainees.	General Manager	Progressing	75%
ACTION 2 - Develop a Narrandera Shire Cultural Plan to increase community participation in the Arts and cultural activities	Details of events held at the centre including type of event and attendance statistics.	Increased usage and patronage of the Narrandera Arts and Community Centre.	As of 31 March 2019 - Action on the Narrandera Shire Cultural Plan is ongoing, examination of available plans from other Local Government Authorities and organisations with an emphasis on those from areas with similar characteristics is being undertaken prior to the establishment of a basic framework. Once a framework and consultation plan have been established, community consultation will begin during 2019.	Community Development (including Library) Manager	Progressing	25%
ACTION 2 - Develop a Narrandera Shire Cultural Plan to increase community participation in the Arts and cultural activities	Regular review of strategies and target groups in response to event statistics.	Events that cater for a wide spectrum of the community, making the Arts accessible and increasing community involvement.	As of 31 March 2019 - While the Cultural Plan is being developed actions to increase community participation in the Arts has already commenced. The final exhibition of the Western Riverina Arts "Activating Narrandera Arts Centre" is expected to open in the middle of the year. The Murru Aboriginal Art Exhibition was a success followed by NACNET's "What happens if....." exhibition which	Community Development (including Library) Manager	Progressing	30%



ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			<p>was very popular and will enjoy an extended run. These events have provided the community with the opportunity to participate in a wide range of arts and cultural activities. The Arts and Cultural 355 Committee has now been established uniting the interests of both the Arts and Community Centre and the Parkside Cottage Museum along with the skills and experience of organisations such as NACNET and the Western Riverina Arts Board and other interested individuals from the community. Volunteer committees are working on the development of both the Museum and the Arts Centre.</p>			

**STRATEGY 3 - TO FEEL CONNECTED AND SAFE**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Strategic advocacy for an enhanced Police presence, at the very least the maintenance of current levels	Number of advocacy interactions and outcomes.	Details on the number of advocacy meetings held with decision makers.	As of 31 March 2019 - During the reporting period the Mayor and the General Manager met twice with senior Police representatives to discuss staffing levels. Approaches were made to six (6) adjoining Council areas to gauge interest in establishing a lobby group for the region.	General Manager	Progressing	75%
ACTION 2 - Maintain and enhance the current network of CCTV cameras in key locations	Number of cameras within current network and a timeline for upgrade and/or the installation of new cameras; also ongoing statistical information on how many times the footage has been requested for viewing by NSW Police.	Maintain current CCTV cameras in working order and plan for enhancements so to assist the Police and the local community to discourage crime and anti-social behaviour.	As of 31 March 2019 - The Manager of Information Technology has a comprehensive specification of each CCTV camera within the network with the Manager currently working on prioritising the replacement schedule. Two (2) additional cameras were installed at the Narrandera Railway Station and the CCTV system at the Narrandera-Leeton Airport was recently replaced. During the reporting period only one formal request for the release of footage was received by the NSW Police.	Information Technology Manager	Progressing	50%

**THEME 2 - OUR ENVIRONMENT**

**STRATEGY 1 - TO VALUE, CARE FOR AND PROTECT OUR NATURAL ENVIRONMENT**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Encourage and promote environmental awareness	Project delivery and works programs result in minimal environmental harm.	Council's key environmentally sensitive areas are managed to ensure those areas are protected and enhanced.	As of 31 March 2019 - Narrandera Shire Council was successful in obtaining grant funding under the Roadside Reserves Environment grant program enabling a wide cross section of staff to be trained in roadside environment awareness in particular environments most at risk. The next phase is the development of strategic plans and a flow chart on how to carry out on-ground assessment of reserves and the implementation of management actions.	Deputy GM Infrastructure	Progressing	70%
ACTION 1 - Encourage and promote environmental awareness	Statistical information on the number of inspections performed also a summary of the inspections results – are we being effective, are we achieving control.	Update on targeted 300 property inspections across the Shire for noxious weeds.	As of 31 March 2019 - During the reporting period 50 property inspections were completed with no general biosecurity directions issued.	Open Space Recreation Manager	Progressing	65%
ACTION 1 - Encourage and promote	Works finalised against the schedule of works,	Update on programs for works originating from the 2nd	As of 31 March 2019 - There has been no additional tree plantings since December 2018 due to budget	Open Space Recreation Manager	Progressing	80%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
environmental awareness	progressive and comparative  statistical data on trees removed, trees replaced and new plantings.	generation Tree Audit with the aim to do the utmost to preserve and maintain our signature treescape.	constraints, only those works to alleviate risk have been undertaken.			
ACTION 1 - Encourage and promote environmental awareness	Strategies and plans to preserve a unique feature of our native fauna.	Update on preservation measures to protect our unique koala population.	As of 31 March 2019 - The requirements contained within State Environmental Planning Policy No. 44 - Koala Habitat Protection requires an assessment for the presence of Koala vegetation prior to development approval. Council continues to provide support the Koala Regeneration Committee.	Open Space Recreation Manager	Progressing	50%

**STRATEGY 2 - TO EFFECTIVELY MANAGE AND BEAUTIFY OUR PUBLIC SPACES**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Focus on the Narrandera CBD Masterplan	Achieving project milestones.	Finalise design concepts, costings and identify funding opportunities for the Narrandera CBD upgrade.	As of 31 March 2019 - Council are progressing with action milestones to reconstruct Bolton Street as per the adopted Masterplan Design; funding will be derived from the Narrandera Business Centre Masterplan funding reserves. Plans are well advanced to commence works to redevelop the East Street, Narrandera gateway intersection with Whitton Street; with funding to be derived through the Federal Government Drought Assistance Package.	Manager of Projects and Assets	Progressing	75%
ACTION 1 - Focus on the Narrandera CBD Masterplan	Spaces where the needs of the community as a whole are considered.	The needs of all members of the community are considered within designs such as pedestrian access, disabled parking and loading zones.	As of 31 March 2019 - The construction and fit out of the Barellan change room complex at the Barellan Sportsground has been completed and has proven to be an asset to this community facility. At Marie Bashir Park at Narrandera, apart from the 3 new family friendly barbeque areas the basketball pit has been completed. Plans are underway to install a re-use watering system at Hankinson Park.	Open Space Recreation Manager	Progressing	80%
ACTION 2 - Develop a small parks strategy	Accessible parks that provide for local play, passive recreation, general	The needs of the community for parks and recreation opportunities are	As of 31 March 2019 - At Marie Bashir Park, Narrandera construction of a walking/jogging track surrounding the sporting oval has been completed.	Open Space Recreation Manager	Progressing	80%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
	open space and urban beautification within easy access of residents and visitors.	met through a hierarchy of parks.	Refurbishment and extensions to the skate park at Marie Bashir Park have been completed as has an adjoining family barbeque area. Works on the Basketball Pit have also been completed.			



**STRATEGY 3 - TO LIVE IN A COMMUNITY WHERE THERE ARE SUSTAINABLE PRACTICES**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Consider and where possible implement sustainable environmental practices	Progress of the Masterplan also statistical data on the tonnage of waste diverted from landfill by recycling and other waste diversion methods. Lobbying efforts for and promotion of a container deposit scheme facility for Narrandera.	Develop a Waste Management Masterplan to minimise waste to landfill and promoting recycling and resource recovery.	As of 31 March 2019 - Community use of the Community Recycling Centre at the entrance to the facility diverts specified materials such as water-based and oil-based paints, fluorescent lights, batteries, gas bottles, fire extinguishers, acid and alkalines, etc away from landfill. Council is in ongoing discussions with an operator regarding installation of a reverse vending machine at the Narrandera Landfill site. The landfill audit is scheduled to occur during 2019 with audit outcomes helping to determine priority actions identified within the Masterplan.	Manager Development and Environment	Progressing	20%
ACTION 1 - Consider and where possible implement sustainable environmental practices	Actions taken by Council to reduce its environmental footprint such as quantifiable billing trends.	Council continues to implement energy saving infrastructure at its facilities to reduce costs and CO2 emissions where economically viable.	As of 31 March 2019 - Council continues to make savings by using solar generated power. Configuration of electrical usage to water supply facilities is being assessed to avoid pumping operations outside of peak usage periods to prevent additional KVA energy charges; being mindful that it is critical to maintain residual chlorine and storage levels.	Executive Engineer	Progressing	70%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Consider and where possible implement sustainable environmental practices	Council managed parks and reserves to be watered with re-use or untreated water rather than potable water.	Initiate projects to water community parks and reserves with re-use or untreated water rather than potable water.	As of 31 March 2019 - Locations recently connected and using the Narrandera reuse water include the Narrandera Cemetery (lawn cemeteries only), Henry Mathieson Oval and Marie Bashir Park Oval. Automated watering systems have been installed along parts of Victoria Avenue adjacent to the Narrandera Sports Stadium and the Narrandera Sportsground. Works are progressing with the irrigation project at Hankinson Park which will be funded as part of Round 2 of the Stronger Country Communities Fund.	Open Space Recreation Manager	Progressing	80%



**THEME 3 - OUR ECONOMY**

**STRATEGY 1 - TO ENCOURAGE NEW BUSINESS AND INDUSTRY THAT CAN BE SUSTAINED ALSO SUPPORT LOCAL BUSINESS AND INDUSTRY TO GROW AND PROSPER**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Continued delivery of actions contained within the Economic Development Strategy	Information to Council and the community on efforts to encourage new business and industry but also support existing enterprises.	Report on actions and outcomes contained within the Economic Development Strategy (EDS).	As of 31 March 2019 - Monthly reports continue to be provided to the Economic Development Taskforce Committee benchmarked against the template of Council's Economic Development Strategy. There was significant action on the Solar Farm development front with the formation of a Reference Group formed from across the community including Councillors; the group was formed to address the needs of the builders of the proposed new solar farms being developed by Reach Solar, Esco Pacific and RES. The objective for Council is to ensure that as many goods and services as possible able to be sourced from within the Shire; to date Council has established a database of in excess of 45 businesses that have responded to an EOI. The earliest requirements are likely to emerge during September 2019 when Reach Solar is hopeful to commence its facility at Morundah.	Economic Development Manager	Progressing	75%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Continued delivery of actions contained within the Economic Development Strategy	Attend Narrandera Business Group Meetings; facilitate guest speakers at Business Group functions; provide information, advice and leverage opportunities for information sharing.	Support and nurture existing businesses – EDS 3.2	As of 31 March 2019 - Attended Narrandera Business Group Meeting AGM on 11 March 2019 providing an update on the proposed solar farm developments, the establishment of the Reference Group and the number of types of responses to an EOI circulated by the Economic Development Unit to businesses likely to be able to offer goods and services to the solar farm developers in due course.	Economic Development Manager	Progressing	65%
ACTION 1 - Continued delivery of actions contained within the Economic Development Strategy	Facilitate an industry specific forum to inform landholders and investors of opportunities in the Shire for the pig and chicken industry.	Strengthen and grow key sectors; explore new development opportunities for processing and value-adding opportunities also use of waste products – EDS 3.3.	As of 31 March 2019 - Mr David Farley, an agri -business sector expert, is currently following up on business leads from attendees at the 2018 pig forum. At this stage it is not possible to facilitate a poultry forum as principal industry leader Baiada are unable to support the conduct of a forum at this time; this will be followed up during 2019. A number of private enquiries about establishing sheds for chicken fattening were referred to a local real estate agent for suitable land availability.	Economic Development Manager	Progressing	55%
ACTION 1 - Continued delivery of actions contained within the Economic Development	Review sales policy for Council owned land in the Industrial Estate to address incentives	Facilitate further development of the Red Hill Industrial Estate – EDS 4.2.	As of 31 March 2019 - An enhanced large billboard has been sited on the corner of the Newell Highway and the Barellan Road highlighting the availability of Industrial land at	Economic Development Manager	Progressing	70%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
Strategy	for developers; enhance appearance of the Estate with signage, flags and landscaping including 'gateway' treatment.		competitive prices. Gateway entrance treatment to the estate will included pole mounted banners at the intersection of the Barellan Road and Driscoll Road with installation is imminent. Consideration of a small park development at the same corner is currently being assessed by the Economic Development Unit.			

**STRATEGY 2 - POPULATION GROWTH, RETENTION AND IDENTIFY NEEDS FOR OUR YOUTH**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Strategic advocacy to support population retention with particular focus on the youth of our Shire	Youth projects and engagement opportunities.	Report on the outcomes achieved by the Youth Development Officer.	As of 31 March 2019 - Youth Week 2019 has been co-ordinated with Totem Skate School returning for a workshop at the newly expanded and improved Narrandera Skate Park. This workshop will highlight the importance of wearing a helmet and will be followed by a BBQ hosted by Narrandera Bidgee Boxing. There will also be a video competition and activities co-ordinated by Fusion and the Narrandera Shire Library. The successful applicant for the Community Liaison Officer position will be in place and operating during the second quarter of 2019. Draft documentation for the Youth Advisory Council has been completed with an interim implementation group selected so that the project can move forward.	Community Development (including Library) Manager	Progressing	40%
ACTION 2 - Strategic advocacy for diverse housing options	Enhanced accommodation options that may be made available to members of the community.	When opportunities arise advocate for accommodation options that align with our population demographics.	As of 31 March 2019 - Following advice that a Narrandera based Women's Refuge would not be feasible Council continues to advocate for increased services to support the Narrandera Domestic Violence Awareness Committee in their efforts to provide the community with information on Domestic	Community Development (including Library) Manager	Ongoing commitment	10%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			<p>Violence and the help that is available for victims. Refuge services are currently in place within the region and assistance with emergency crisis accommodation is provided through the Linking Communities Network. Flexible housing solutions are currently under discussion due to the potential influx of labour during the construction phase of the proposed solar farms within the Shire.</p>			

**THEME 4 - OUR INFRASTRUCTURE**

**STRATEGY 1 - TO HAVE AN IMPROVED AND ADEQUATELY MAINTAINED ROAD NETWORK**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
<p>ACTION 1 - Through advocacy seek funding commitments for identified roadway projects and strategies</p>	<p>Advocacy efforts and the reporting of successful outcomes using a timeline.</p>	<p>Secure funding from each of the transport strategy funding streams.</p>	<p>As of 31st March 2019- Council made an application to upgrade the road and causeway on Canola Way crossing Cowabbie Creek east of Grong Grong, this application was successful and a deed of agreement signed valued at \$1.3 M. Council is also planning to complete the Kamarah Road curve realignment by March 2020 which has been funded by the Heavy Vehicle Safety and Productivity Program. Council completed strategic road reviews and based its 2018-2019 and 2019-2020 funding application plans that were reported and endorsed by Council in March 2018. Council is in the process of developing funding applications valued at \$6.5 M for various projects by August 2019; the application includes the upgrading of Erigolia Road, Brewarana Bridge retrofitting, upgrade of 14 intersections for efficient and safe transit of heavy vehicles, bridge assessments for culverts and causeways, upgrade of Settlers Road and Rosedale road also pavement</p>	<p>Works Manager</p>	<p>Progressing</p>	<p>70%</p>



ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			upgrade at the Narrandera-Leeton Airport.			
ACTION 2 - Road assets are managed in accordance with the road service review and asset management plans	Strategic mapping of reseal, re-sheeting or grading works made available to the community also details of works undertaken during the reporting period.	The road service review and asset management plans are to be consulted when planning for works.	<p>As of 31st March 2019 - the following works has been completed for the 2018-2019 reporting year:</p> <ul style="list-style-type: none"> <li>- 17 kilometres of seal extension has been completed using Otta seal</li> <li>- more than 500 km of maintenance grading has been completed</li> <li>- about 80 km of shoulder grading and table drain maintenance work has been completed</li> <li>- 28 km of resheeting work has been completed.</li> </ul> <p>Apart from various roadworks and the use of Otta Seals a strategy to manage Councils extensive unsealed roads with optimised cost is being researched. An extensive study of use of PAM (Polyacrylamide) on gravelled road surfaces continues with various experts in the field; an economic viable way to source the product directly from China is being researched. A small scale trial of the use of inexpensive PAM is being considered as an option to reduce</p>	Works Manager	Progressing	70%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			the rate of gravel loss.			
ACTION 3 - Maintain the condition rating of the road network across the Shire in accordance with agreed service levels	A complete and reliable asset management plan.	Maintain the road network in accordance with adopted levels of service.	As of 31 March 2019 - Council completed gravel depth measurement investigations at 500 metre intervals for the entire graveled road network within the Shire; at the same time assessing the seal at 500 m intervals on sealed roads. With factual data a 4 years re-sheet and reseal program can now be redeveloped across the next 12 months. The data allows for the creation of thematic mapping of areas that require attention.	Works Manager	Progressing	50%



**STRATEGY 2 - TO IMPROVE, MAINTAIN AND VALUE-ADD TO OUR ESSENTIAL PUBLIC AND RECREATIONAL INFRASTRUCTURE**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Plan and source funding for redevelopment of or the construction of key facilities and infrastructure	Availability of accurate and relevant data for all classes of assets.	Implementation of an asset management system.	As of 31 March 2019 - Staff continually looking for grant funding opportunities for facility and infrastructure assets identified in the Community's Delivery Program 2017-2030. Council has submitted applications for grant funding on a variety of State and Commonwealth programs with mixed results. Council has been successful in gaining access to grant funding up to \$1 M under the Drought Communities Program and are working on completing identified Projects. Council was also successful in being invited to submit a detailed application under the Regional Growth Environmental Trust for the Playground on the Murrumbidgee application which is due 4 February 2019, as yet the results of this application is not known. Projects under Rounds 1 & 2 of the Stronger Country Communities Funding are progressing with the completion of the Marie Bashir Park skate park upgrade, basketball pit installation, running track and perimeter oval	Manager of Projects and Assets	Progressing	65%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			fencing replacement also the Barellan Sportsground changerooms.			
ACTION 1 - Plan and source funding for redevelopment of or the construction of key facilities and infrastructure	Completion of projects identified within projected timeframe and budget.	Preparation of future plans for the renewal or replacement of assets.	As of 31 March 2019 - All funded infrastructure projects have been scheduled for commencement and resourcing with stakeholders meeting fortnightly to review and update all project action plans; this group is chaired by the Deputy General Manager Infrastructure. The quarterly budget review and monthly capital works program updates are actioned to inform progress of all projects. The Project Management control software is continually updated to provide all stakeholders with the highest level of progress for each activity.	Manager of Projects and Assets	Progressing	70%
ACTION 1 - Plan and source funding for redevelopment of or the construction of key facilities and infrastructure	Details of applications submitted and the outcome.	Funding opportunities to replace key facilities and infrastructure.	As of 31 March 2019 - Applications have been submitted for the Barellan Sewer project and the Narrandera West Sewer project also the upgrade of the current Narrandera Water Treatment Plant. Funding for the scoping of a new Water Treatment Plant has been approved.	Water Sewer Engineering Officer	Progressing	50%
ACTION 2 - Continuation and monitoring of the	Reporting of milestones achieved within	Implement IWCMP; report on direct actions derived from	As of 31 March 2019 - An options study has been completed with the presentation of the options and the	Water Sewer Engineering	Progressing	70%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
Integrated Water Cycle Management Plan (IWCMP).	the IWCMP.	the IWCMP with relevant timeline and Key Performance Indicators.	adoption of a business case are yet to be finalised.	Officer		
ACTION 3 - An ongoing program of capital works for both water and sewer operations of Council	Progress of proposed works followed by the completion of projects within budget and effectiveness measured by a timeline.	Ongoing 10 year Capital Works Program within funding.	As of 31 March 2019 - A 10 year capital works program is on target.	Water Sewer Engineering Officer	Progressing	40%

**THEME 5 - OUR CIVIC LEADERSHIP**

**STRATEGY 1 - TO HAVE A COUNCIL THAT DEMONSTRATES EFFECTIVE MANAGEMENT CONSISTENTLY, ALSO A COUNCIL THAT COMMUNICATES AND ENGAGES WELL WITH THE COMMUNITY AND WORKS COLLABORATIVELY**

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 1 - Accountable, transparent and ensure open communication between the community and Council	Delivery Program update report submitted to Council and community during September, December, March and June annually on outcomes achieved.	Continued three monthly reporting on measureables contained within the Delivery Program.	As of 31 March 2019 - The reporting on measurables on a three monthly basis continues, at a future Senior Management Team meeting the need for better reporting on what has actually been achieved and current performance compared to say the same reporting period 12 months ago will be explained as a prelude to better performance reporting.	Governance & Engagement Manager	Progressing	90%
ACTION 1 - Accountable, transparent and ensure open communication between the community and Council	Scheduled for early 2020 and will inform Council of the views of the community against industry benchmarks.	Undertake a second Community Survey early 2020.	As of 31 March 2019 - Preliminary 2020 Community Survey tasks have commenced by looking at other community surveys to ascertain what new questions can be introduced into the survey.	Governance & Engagement Manager	Progressing	5%
ACTION 1 - Accountable, transparent and ensure open communication between the community and Council	Outcomes promised by Council in its Fit for the Future Improvement Plan.	Report on Fit for the Future strategies.	As of 31 March 2019 - Council's audited general purpose financial statements as at 30 June 2018 indicate that Council has surpassed the NSW Local Government industry indicators for all financial benchmarks in both the Consolidated and General Fund with the exception of the Own	Deputy GM Corporate & Community	Progressing	80%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
Council			Source Operating Revenue Ratio. The consolidated ratio of 55% is below the benchmark of 60% however the ratio was impacted by Council achieving addition State Government Grants during the year reducing the ratio of own source funds to total operating revenue. The Council is unlikely to achieve the Own Source Revenue benchmark of 60% in 2018-2019 as State and Federal Governments are both directing significant grant funding to Councils in the lead up to 2019 elections. Council's 2019 budget deliberations will include forecast of financial outcomes against the Fit For The Future benchmarks in the long term financial plan.			
ACTION 1 - Accountable, transparent and ensure open communication between the community and Council	Amendments to the Customer Service Charter to be made by 31 December 2018 also review the Customer Request System reporting to ensure requests are being dealt with as per the Charter and determine ways to gauge if the customer is happy with the	Update the Customer Service Charter to include reference to AS/NZS 1002:2014 'Guidelines for complaint management in organisations'.	As of 31 March 2019 - Originating from the Executive Leadership Team, the Customer Service Think Tank group was created to resolve a number of issues such as the responsibility for closing the customer service loop, that is from the service request initiation to the action then to gauging customer satisfaction. The outcomes of this Think Tank will be incorporated into the Draft Customer Service Charter to be presented to both the Executive Leadership Team	Governance & Engagement Manager	Progressing	50%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
	outcome.		then Council in coming months.			
ACTION 1 - Accountable, transparent and ensure open communication between the community and Council	Council to consider any requests in accordance with the Community Strategic Plan 2017-2030.	Where possible support community projects where groups or organisations have clear goals and outcomes.	As of 31 March 2019 - Any requests for support shall be considered in accordance with strategic documents and budgetary constraints.	Governance & Engagement Manager	Ongoing commitment	100%
ACTION 1 - Accountable, transparent and ensure open communication between the community and Council	Compliance with Australian Government Digital Service Standard also details of website content review and where possible details of website visits and pages most frequently visited.	Ensure that the Council website is compliant with current industry standards.	<p>As of 31 March 2019 - Website redevelopment is due for completion by the end of August 2019 and will be built to the Federal Digital Services Standards required, including understanding the needs of the user, agile and user-centred process, website security, consistent and responsive design, accessibility and measuring performance. Council's current website was created about 2005 and is therefore not required to be assessed against the Standard. Demonz Media have been engaged to complete the redevelopment works.</p> <p>The current website contains 126 online pages; the website has been viewed 14,911 times up from 14,379 times in the previous quarter. The top five pages are the homepage 2,315 views (2,050 last quarter), positions</p>	Communications Officer	Progressing	65%



ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			vacant 1,678 views (1,437 last quarter), contact information 1,246 views (1,230 last quarter), Lake Talbot Aquatic Park 1,207 views (1,016 last quarter) and the Business Papers & Minutes 509 times (last quarter 561 views).			
ACTION 1 - Accountable, transparent and ensure open communication between the community and Council	Revise Council's Procurement Policy by 31 December 2018.	Council's procurement provides best value and protects against fraud and corruption.	As of 31 March 2019 - The review of the Procurement Policy has commenced by looking at the policies of other Councils to gauge the scope of the review.	Governance & Engagement Manager	Progressing	10%
ACTION 2 - A highly skilled and motivated workforce	Reviewed at least every 2 years or when there is legislative or award changes.	Ensure workforce policies remain current in a changing work environment.	As of 31 March 2019 - The recent recruitment of Council's Work Health and Safety Risk Officer (WHSRO) will allow the policy reviews to now progress. Currently nine Human Resource policies have been reviewed along with fifteen Work Health and Safety Risk policies. Council's WHSRO is in the process of developing additional necessary policies; it is envisaged that policy training will form part of the Council staff breakfast/training day to be held during May 2019.	Human Resources Manager	Progressing	40%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 2 - A highly skilled and motivated workforce	Action recommendations within the Workforce Strategic Plan 2017-2021; report September annually on staff demographics in comparison to previous 3 years.	Develop and implement succession planning.	As of 31 March 2019 - The Human Resources Team continues to report this information to the Executive Leadership Team on a monthly basis. Council also continues to participate in the annual Price Waterhouse Cooper survey which is a valuable tool when benchmarking Council against other local government authorities across Australia.	Human Resources Manager	Ongoing commitment	100%
ACTION 2 - A highly skilled and motivated workforce	Amendments are made as soon as possible; report September annually performance appraisal outcomes.	Implement approved revisions of the salary administration and Employee Performance Management System.	As of 31 March 2019 - The 2017-2018 Employee Performance Appraisal process has now been finalised with all recommended or approved financial increases now processed. The training budget for the current 2018-2019 financial year has not yet been finalised due to issues within the approval processes, however these issues are expected to be resolved soon. The 2018-2019 appraisal process is reaching the final stages with approximately forty five set phases yet to be completed, the final reviews are to be finalised by the end of May 2019.	Human Resources Manager	Progressing	90%
ACTION 2 - A highly skilled and motivated workforce	Information presented is accurate, relevant and easy to read.	Identified Council staff to undertake training for excellent written communication	As of 31 March 2019 - Two separate training programs for report writing were provided to staff during 2017-2018. The level of training was determined by the skill level required	Human Resources Manager	Completed	100%



ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
		and presentation skills.	whereby comprehensive training was provided for management and basic to intermediate training provided for other staff. The 2017-2018 Employee Performance Management process did not identify any staff that would benefit from additional training. It is expected that the upcoming 2018-2019 Employee Performance Management process will identify any current deficiencies.			
ACTION 3 - As an organisation the information management capability meets the needs of the users and the community	Implement actions within the Information Management Strategy 2014-2019 also review and update the Information Strategy 2014-2019 during 2020.	Maintain an Information Management Strategy providing best value contemporary services.	As of 31 March 2019 - The Information Management Strategy 2014-2019 is assessed each year with relevant items to be included in the Capital Works Budget annually. The Information Management Strategy is scheduled for review and update during 2020.	Information Technology Manager	Ongoing commitment	50%
ACTION 4 - Financial sustainability is critical with maximum rate revenue to be achieved and other income sources maximised	Recommendations to maximise Council's financial position.	Monitor Council's financial situation and progress against Fit for the Future benchmarks.	As of 31 March 2019 - Council's Revenue Officer closely monitors assessments which may become rateable during the financial year; including the sale of vacant Department of Housing land. or land sold by religious institutions or instances where Crown authorities that are currently non- rateable become rateable. The Finance Manger regularly reviews Investments	Senior Finance Officer	Progressing	55%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
			in accordance with the Investment Policy and reports to Council on a monthly basis. The budget is reviewed on a quarterly basis and reported to Council with any variations that have been made during the reporting period.			
ACTION 4 - Financial sustainability is critical with maximum rate revenue to be achieved and other income sources maximised	Have systems in place that details grants applied for, and where successful that monies have been received, expended and acquitted in accordance with the funding body requirements.	Monitor the level of State and Federal Government grants payable to Council.	As of 31 March 2019 - Council has developed a register that details the name of the Council officer who has applied for grant funding, from where the funding is being sourced, if the funding was successful then the date and the amount of the funding received, eventually the date that the acquittal needs to be finalised and the actual date of acquittal.	Senior Finance Officer	Ongoing commitment	100%
ACTION 4 - Financial sustainability is critical with maximum rate revenue to be achieved and other income sources maximised	Reported monthly to Council against a timeline.	Ensure that Council funds are invested in accordance with legislative provisions and income yield is maintained within Council's risk profile.	As of 31 March 2019 - A monthly report detailing Councils invested monies is presented to Council each month; the report details all transactions that have taken place within the proceeding month and gives a snapshot of the portfolio credit limits to make sure that Council remains within the prescribed amount allowed for each institution. A report for local expenditure is also tabled in conjunction with the budget quarterly review.	Senior Finance Officer	Ongoing commitment	100%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
ACTION 5 - The community displays a high level of understanding and compliance with legislative in regard to the keeping of and control of companion animals and other animals	Updated statistics for each reporting period with cumulative totals also to be reported.	Number of dogs registered under the Companion Animals Act.	As of 31 March 2019 - Compliance staff commenced door-to-door compliance checks of companion animals within the Narrandera township during the reporting period with 326 residences visited to date. Animals at each address were scanned for identification and checked on the Companion Animals Register. Penalty Infringement Notices (PINs) were not issued, but information has been provided to pet owners about identification (microchipping) and registration requirements with follow-up visits scheduled.	Manager Development and Environment	Ongoing commitment	20%
ACTION 5 - The community displays a high level of understanding and compliance with legislative in regard to the keeping of and control of companion animals and other animals	Updated statistics for each reporting period with cumulative totals also to be reported.	Number of cats registered under the Companion Animals Act.	As of 31 March 2019 - Between July 2018 and February 2019, 44 chipped and registered pets were returned to owners at no charge. 29 cats and dogs were impounded before release to owners. 63 dogs and 33 cats were rehomed. 21 warnings and 12 PINs were issued. 2 dangerous dog and 1 menacing dog incidents were reported.	Manager Development and Environment	Ongoing commitment	20%
ACTION 6 - The Narrandera Shire Local Environmental Plan 2013 (LEP) is reviewed within a 5	Review the current LEP within the timeframe established by the Department of Planning and	Maintain the LEP to meet community aspirations, land needs and environmental	As of 31 March 2019 - Council has recruited a permanent part-time Planning Officer that will assist to undertake strategic planning work including any Local Environment Plan	Deputy GM Infrastructure	Progressing	5%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
year cycle	Environment.	outcomes.	(LEP) reviews. During this reporting quarter the focus has been on development assessment, solar farm developments and flood study review that have drawn resources away from commencing the LEP Review.			
ACTION 7 - Planning instruments reflect the intent and direction of land use strategies and facilitate development and growth of the Shire	Compliance with guidelines from the Department of Planning and Environment.	Documents are reviewed against intended outcomes.	As of 31 March 2019 - Council has various planning documents that will be reviewed over a period of time. The priority at the present is to review the Local Environment Plan and make minor housekeeping amendments; leading into a more substantive review in the future. Council's Development Control Plan is also scheduled for review when resources allow.	Deputy GM Infrastructure	Progressing	20%
ACTION 8 - Development Applications received and assessed within statutory timeframes	The number of Development Applications received during the reporting period also financial year cumulative totals also provide comparative yearly data to paste 2 year's data.	Statistical data on Development Applications received, also comparing to previous years.	As of 31 March 2019 - The Development Services report to Council provides lists all development applications (DA's) lodged and determined each calendar month; cumulative totals are included for the current financial year. Comparative data is graphed and indicates the previous two years' data in both numbers of DA's and the value of development.	Manager Development and Environment	Ongoing commitment	20%
ACTION 8 - Development Applications	Comparison of assessment timeframe against	Compliance with statutory timeframes for	As of 31 March 2019 - Comparative assessment timeframes for the previous financial year are included in	Manager Development and	Ongoing commitment	20%

ACTION	Measured By	Performance Target	Comments	Responsible Officer Position	Status	Progress
received and assessed within statutory timeframes	Department of Planning & Environment averages.	assessment.	monthly Development Services reports submitted to Council with the information made available to and represented by the Department of Planning & Environment.	Environment		
ACTION 9 - Maintain a strong voice in regional groups such as RAMROC, the proposed RAMJO also Destination NSW	Details of engagement opportunities.	Proactive engagement at appropriate forums and continued political lobbying with our partners.	As of 31 March 2019 - The Mayor and General Manager attend Riverina and Murray Joint Organisations (RAMJO) meetings and have proactively assisted in the development of the Statement of Regional Strategic Priorities co-ordinated through the Office of Local Government. The General Manager has been appointed as the co-ordinator of the RAMJO Energy sub-committee.	General Manager	Progressing	75%



## FREQUENTLY ASKED QUESTIONS

### **What is the purpose of the Model Code of Conduct?**

The *Model Code of Conduct for Local Councils in NSW* prescribes the minimum ethical and behavioural standards all council officials in NSW are required to comply with. In doing so it seeks to:

- prescribe uniform minimum ethical and behavioural standards for all councils in NSW
- provide clear guidance to council officials on the minimum ethical and behavioural standards expected of them as council officials
- provide clear guidance to local communities on the minimum ethical and behavioural standards they can expect of the council officials who serve them
- promote transparency and accountability
- promote community confidence in the integrity of the decisions councils make and the functions they exercise on behalf of their local communities, and
- promote community confidence in the institution of local government.

### **How is the Model Code of Conduct prescribed?**

The Model Code of Conduct is prescribed under section 440 of the *Local Government Act 1993* (LGA) and the *Local Government (General) Regulation 2005* (the Regulation).

Under section 440 of the LGA, each council is required to adopt a code of conduct based on the Model Code of Conduct prescribed under the Regulation. Councils may enhance or strengthen the standards prescribed under the Model Code of Conduct in their adopted codes of conduct to make them more onerous. Councils may also supplement the provisions contained in the Model Code of Conduct with additional provisions in their adopted codes of conduct.

However, councils cannot dilute or weaken the standards prescribed in the Model Code of Conduct in their adopted codes of conduct. Provisions contained in a council's adopted code of conduct that are less onerous than those prescribed under the Model Code of Conduct will be invalid and the equivalent provisions of the Model Code of Conduct will override them through the operation of section 440 of the LGA.

### **How are the Procedures prescribed?**

The *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* are prescribed under section 440AA of the LGA and the Regulation. Under section 440AA, each council is required to adopt procedures for the administration of their adopted code of conduct based on the Model Procedures prescribed under the LGA and Regulation. Councils' adopted procedures may contain provisions that supplement the Model Procedures, but a council's adopted procedure has no effect to the extent that it is inconsistent with the Model Procedures prescribed under the Regulation.

### **Are joint organisations and county councils required to adopt the Model Code of Conduct and Procedures?**

Yes.

### **Who does the Model Code of Conduct apply to?**

Section 440 of the LGA specifies the classes of council officials that a Model Code of Conduct prescribed under the Regulation may apply to. Under section 440, a Model Code of Conduct may be prescribed that applies to councillors, members of staff of

councils and delegates of councils. For this reason, the Model Code of Conduct prescribed under the Regulation only applies to councillors, council staff and delegates of councils (including members of committees that are delegates of councils). These are all defined as “council officials” for the purposes of the Model Code of Conduct and the Procedures.

Section 440 also allows regulations to be made to apply the provisions of the Model Code of Conduct relating to the disclosure of pecuniary interests to members of a committee of a council (including the Audit, Risk and Improvement Committee) and advisers to councils. A regulation has been made to give effect to this and the new Model Code of Conduct contains provisions prescribing the obligations of committee members and advisers to councils in relation to the disclosure of pecuniary interests.

#### **What is the regulatory scope of the Model Code of Conduct?**

The Model Code of Conduct applies to any conduct by a “council official” that is connected with their role as a council official or the exercise of their functions as a council official.

It is the personal responsibility of all council officials to ensure that their conduct complies with the ethical and behavioural standards prescribed under the Model Code of Conduct. This applies to both the exercise by council officials of their functions as a council official and any conduct (including in a private capacity) that is connected with their role as a council official.

#### **Can councils adopt separate codes of conduct for councillors, staff and delegates and committee members?**

Yes. Some councils indicated in their feedback on the consultation draft of the Model Code of Conduct, a preference for adopting separate codes of conduct for councillors, staff and delegates and committee members instead of a single code of conduct applying to all council officials.

There is nothing to prevent councils from doing so, provided that the adopted codes of conduct, taken together as a package, reflect all the provisions contained in the prescribed Model Code of Conduct and are consistent with it. To assist councils to do this, OLG has prepared bespoke versions of the Model Code of Conduct for councillors, staff and delegates and committee members for adoption instead of a single code of conduct for councils wishing to do this.

#### **Can a council extend the application of its adopted code of conduct to persons other than councillors, council staff and delegates of council?**

Yes. There is nothing under the LGA to prevent a council, when adopting a code of conduct based on the Model Code of Conduct, to extend its application to persons other than councillors, council staff and delegates of council.

In adopting a code of conduct based on the Model Code of Conduct, councils may amend the provisions of the Model Code of Conduct and the associated Procedures to extend their application to contractors, community members of wholly advisory committees and/or volunteers. In doing so, to be effective, councils will also need to make it a condition of a contractor's engagement or volunteer's or advisory committee member's appointment that they comply with the council's adopted code of conduct.



**How many iterations of the Model Code of Conduct and Procedures have there been?**

The Model Code of Conduct has been reviewed every four years to address new and emerging issues and to reflect shifting community standards and expectations. The 2018 version of the Model Code of Conduct is the fourth iteration. The first iteration of the Model Code of Conduct was prescribed in January 2005 in support of amendments to the LGA that required the adoption of a code of conduct based on a prescribed Model Code of Conduct. Before this, councils were free to adopt their own codes of conduct with the result that ethical standards varied from council to council.

The 2018 version of the Procedures is the second iteration. The first iteration of the Procedures was prescribed in March 2013 in support of amendments to the LGA that required the adoption of procedures for the administration of council's adopted codes of conduct based on a prescribed Model Procedure.

**Why was the new Model Code of Conduct developed?**

The new 2018 version of the Model Code of Conduct gives effect to a key reform made by amendments passed by the NSW Parliament to consolidate the prescription of all ethical standards for local government into a single statutory instrument. Previously, ethical standards were prescribed from three sources, the pecuniary interest provisions of the LGA and the Regulation and the Model Code of Conduct.

Consolidating all ethical standards into a single instrument will:

- result in a better understanding of, and compliance, with ethical standards - council officials will no longer need to be familiar with their obligations prescribed from three separate statutory sources, the LGA, the Regulation and the Model Code of Conduct
- allow pecuniary interest breaches by councillors to be treated as "misconduct", meaning that minor breaches can be dealt with by the Chief Executive of OLG as an alternative to referral to the NSW Civil and Administrative Tribunal (NCAT) and suspensions for pecuniary interest breaches will be counted towards disqualification for the purposes of the "three strikes" automatic disqualification
- allow greater flexibility and efficiency in updating the standards to address emerging issues - amendments will now be able to be made by way of a Regulation amendment.

**How were the new Model Code of Conduct and Procedures developed?**

Moving the pecuniary interest provisions to the Model Code of Conduct necessitated a rewrite of the Model Code of Conduct. As part of this process, it was decided to also undertake a comprehensive review of the existing provisions of the Model Code of Conduct (as part of the regular four-year review cycle) and the Procedures.

In undertaking the review, OLG consulted extensively with councils and other stakeholders. In developing the new Model Code of Conduct and Procedures, there have been two rounds of public consultation:

- in late 2016, submissions were invited suggesting changes and improvements to the existing Model Code of Conduct and Procedures
- based on the feedback received from the first round of consultation, consultation drafts of the proposed new Model Code of Conduct and Procedures were developed and issued for comment.

The final versions of the 2018 Model Code of Conduct and Procedures have been informed by the comment received in response to the consultation drafts.

### **What changes have been made in the 2018 version of the Model Code of Conduct?**

The most obvious change is that the pecuniary interest provisions previously contained in the LGA and Regulation have now been included in the Model Code of Conduct.

One of the recurrent themes of the feedback received in the first round of consultation on the new Model Code of Conduct was that the “principles-based” approach to prescribing ethical and behavioural standards in the previous version of the Model Code of Conduct resulted in some of the prescribed standards being too vague, meaning that the ethical and behavioural standards expected of council officials were unclear and that almost anything could potentially constitute a breach of a council’s code of conduct. In response to this, the Model Code of Conduct has been substantially redrafted to be more prescriptive and to more clearly identify the behaviours that it seeks to deter.

Other key changes include:

- new standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, access to information and maintenance of council records
- new rules governing the acceptance of gifts including mandatory reporting
- a new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them
- councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of a property developer.

### **What changes have been made to the previously approved version of the Model Code of Conduct posted on OLG’s website on 5 September 2018?**

Provisions governing the use of social media (clause 8.21) in the previously released version of the Model Code issued on 5 September 2018 have been removed. However, it remains open to councils to adopt this provision as a supplementary provision of their code of conduct, should they choose to do so. Should councils require further assistance in relation to this, they may contact OLG’s Council Governance Team.

### **What changes have been made in the 2018 version of the Procedures?**

In response to feedback, changes have been made to the Procedures to address the following issues:

- the role of the general manager in the receipt and initial management of code of conduct complaints about councillors
- the ability of complainants, who are unhappy with decisions of the council, to misuse councils’ codes of conduct by repackaging routine complaints as “code of conduct complaints”
- the lack of recourse against members of the public who inappropriately disclose information about complaints they have made under a council’s code of conduct.

These changes are outlined below:



**How can councils outsource and centralise the management of complaints about councillors through regional arrangements under the new Procedures?**

The new Procedures have sought to address concerns about the role of the general manager in the receipt and initial management of code of conduct complaints about councillors by giving general managers (and mayors in the case of complaints about the general manager) the flexibility to delegate their functions under the Procedures to another member of staff or a person external to the council.

The new Procedures have also been designed to allow councils to centralise the management of code of conduct complaints through a joint organisation, a regional organisation of councils or another shared arrangement should they choose to do so. This could be done, for example, through the establishment of a broader internal ombudsman function in a joint organisation or regional organisation of councils or through another shared arrangement to service member councils.

In particular:

- councils are able to establish and maintain regional panels of conduct reviewers through a joint or regional organisation of councils or another shared arrangement
- a staff member of a joint or regional organisation of councils or another member council can (in consultation with and through the executive officer of the joint organisation or general manager of the employer council) be appointed by general managers of member councils as the complaints coordinator for all member councils
- general managers and mayors of member councils can (in consultation with and through the executive officer of the joint organisation or general manager of the employer council) delegate their complaints management functions under the Procedures to a joint organisation or regional organisation of councils or to a staff member of another member council
- councils' internal ombudsman may, with the approval of OLG, be appointed to a panel of conduct reviewers allowing them to exercise the functions of a conduct reviewer, subject to their being able to meet the qualification criteria for conduct reviewers and being able to demonstrate to OLG's satisfaction a requisite degree of independence from member councils.

This offers a number potential benefits:

- centralisation of these functions through a joint organisation, a regional organisation of councils or another shared arrangement has the potential to deliver efficiencies and economies of scale and allows the development of a body of expertise within the region in the management of code of conduct complaints
- it allows general managers and mayors to divest themselves of the sometimes onerous responsibilities associated with code of conduct complaints management, allowing them to focus on their core responsibilities
- it allows all code of conduct complaints about mayors, councillors and general managers to be managed independently of the councils they relate to.

**How do the new Procedures address misuse of councils' codes of conduct?**

The purpose of a council's code of conduct is to prescribe the ethical and behavioural standards council officials are expected to comply with. The purpose of the Procedures is to support the enforcement of those standards. Consistent with this, councils' codes of conduct should not be used to deal with routine complaints.

The definition of a “code of conduct complaint” under the new Procedures has been tightened up to address the potential for misuse of councils’ codes of conduct to re-litigate council decisions a person may disagree with or to re-prosecute complaints that have previously been addressed under councils’ routine complaints management processes.

To be a code of conduct complaint, a complaint must show or tend to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council’s code of conduct. Complaints that do not meet this definition of a “code of conduct complaint” must not be dealt with under the Procedures and are to be dealt with under councils’ routine complaints management processes.

The new Procedures make it clear that the following are not code of conduct complaints:

- complaints about the standard or level of service provided by a council or a council official
- complaints that relate solely to the merits of a decision made by a council or a council official or the exercise of a discretion by a council or a council official
- complaints about the policies or procedures of a council
- complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council’s code of conduct.

**What recourse do the new Procedures provide against persons who inappropriately disclose information about code of complaints they have made?**

Allegations of breaches of a council’s code of conduct must not be made publicly and information about code of conduct complaints and the consideration of code of conduct complaints is not to be publicly disclosed. This is to ensure the allegations are dealt with appropriately and fairly in accordance with the prescribed Procedures for the management of code of conduct complaints.

While council officials disclosing this information may face disciplinary action, under the previous Procedures there was no recourse against members of the public who did so. Under the new Procedures, where members of the public publicly disclose information about a code of conduct complaint they have made, general managers can determine, with OLG’s consent, that the complainant is to receive no further information about their complaint and any future code of conduct complaints they make (subject to the requirements of the *Government Information (Public Access) Act 2009*).

**When must councils adopt a new code of conduct and procedures based on the new prescribed Model Code of Conduct and Procedures?**

Councils have six months from the date of prescription, (**14 December 2018 – 14 June 2019**) to adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures.

**What are the transitional arrangements for the new Model Code of Conduct and Procedures?**

The following transitional arrangements apply to the new Model Code of Conduct and Procedures:

- Councils' existing adopted codes of conduct and procedures will remain in force until such time as councils adopt a new code of conduct and procedures based on the Model Code of Conduct and Procedures prescribed under the Regulation.
- If a council fails to adopt a new code of conduct and procedures based on the new Model Code of Conduct and Procedures within six months of their prescription, the provisions of the new Model Code of Conduct and Procedures will automatically override any provisions of a council's adopted code of conduct and procedures that are inconsistent with those contained in the Model Code of Conduct and Procedures through the operation of sections 440(4) and 440AA(4) of the LGA (unless the inconsistent provisions of a council's adopted code of conduct are more onerous than those contained in the Model Code of Conduct).
- In adopting a new code of conduct and procedures, councils may include provisions that are supplementary to those contained in the Model Code of Conduct and Procedures. Councils may also impose more onerous requirements under their adopted codes of conduct than those prescribed under the Model Code of Conduct. However, councils must not dilute the standards prescribed under the Model Code of Conduct in their adopted codes of conduct.
- Code of conduct complaints must be assessed against the standards prescribed under the version of the council's code of conduct that was in force at the time the conduct the subject of the complaint is alleged to have occurred.
- Code of conduct complaints must be dealt with in accordance with the version of the council's procedures that was in force at the time the complaint was made.

**Where can I get Word© versions of the new Model Code of Conduct and Procedures?**

If you require a Word© version of the new Model Code of Conduct or Procedures, please contact OLG's Council Governance Team.



# Model Code of Conduct

for Local Councils  
in NSW

2018



**MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW**

2018

**ACCESS TO SERVICES**

The Office of Local Government is located at:

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**Part 1:**  
Introduction

This *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") is made under section 440 of the *Local Government Act 1993* ("LGA") and the *Local Government (General) Regulation 2005* ("the Regulation").

The Model Code of Conduct sets the minimum standards of conduct for council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "council officials" for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

A council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council's or joint organisation's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

Councillors, administrators, members of staff of councils, delegates of councils, (including members of council committees that are delegates of a council) and any other person a council's adopted code of conduct applies to, must comply with the applicable provisions of their council's code of conduct. It is the personal responsibility of council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the LGA. The LGA provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with a council's code of conduct may give rise to disciplinary action.

Note: References in the Model Code of Conduct to councils are also to be taken as references to county councils and joint organisations.

Note: In adopting the Model Code of Conduct, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

Note: In adopting the Model Code of Conduct, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

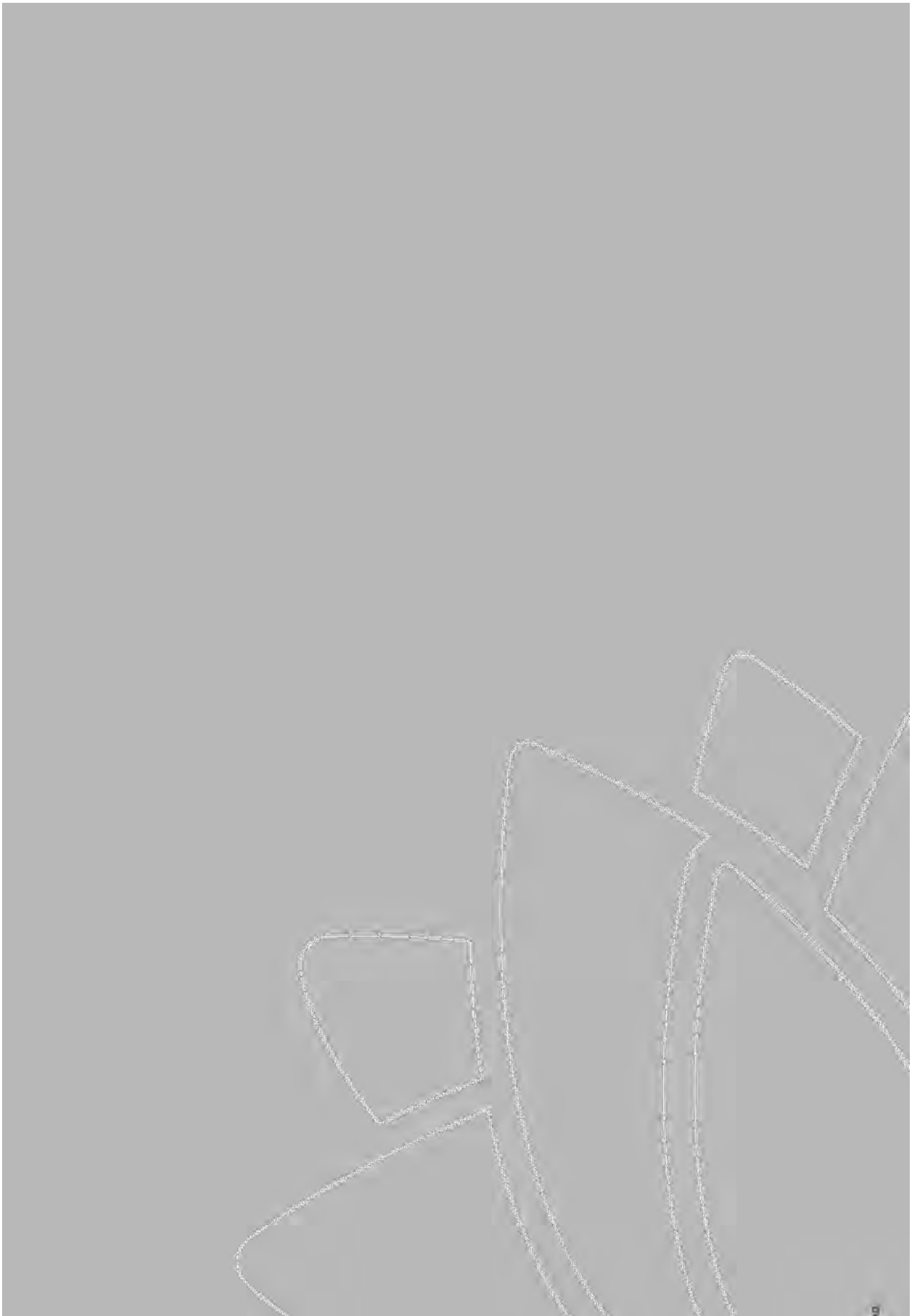


**Part 2:**  
**Definitions**

In this code the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of "council committee"
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
conduct	includes acts and omissions
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 4000 of the LGA
LGA	the <i>Local Government Act 1993</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	includes the chairperson of a county council or a joint organisation

members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2005</i>
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to







**Part 3:**  
**General Conduct**  
**Obligations**

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## General conduct

- 3.1 You must not conduct yourself in a manner that:
- is likely to bring the council or other council officials into disrepute
  - is contrary to statutory requirements or the council's administrative requirements or policies
  - is improper or unethical
  - is an abuse of power
  - causes, comprises or involves intimidation or verbal abuse
  - involves the misuse of your position to obtain a private benefit
  - constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.
- 3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act (*section 439*).

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## Fairness and equity

- 3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

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## Harassment and discrimination

- 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of sex, pregnancy, breastfeeding, race, age, marital or domestic status, homosexuality, disability, transgender status, infectious disease, carer's responsibilities or political, religious or other affiliation.
- 3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:
- is not wanted by the person
  - offends, humiliates or intimidates the person, and
  - creates a hostile environment.

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## Bullying

- 3.8 You must not engage in bullying behaviour towards others.
- 3.9 For the purposes of this code, "bullying behaviour" is any behaviour in which:
- a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
  - the behaviour creates a risk to health and safety.
- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- aggressive, threatening or intimidating conduct
  - belittling or humiliating comments
  - spreading malicious rumours
  - teasing, practical jokes or 'initiation ceremonies'

- e) exclusion from work-related events
- f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- g) displaying offensive material
- h) pressure to behave in an inappropriate manner.

3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- a) performance management processes
- b) disciplinary action for misconduct
- c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
- d) directing a worker to perform duties in keeping with their job
- e) maintaining reasonable workplace goals and standards
- f) legitimately exercising a regulatory function
- g) legitimately implementing a council policy or administrative processes.

- a) take reasonable care for your own health and safety
- b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the council to ensure workplace health and safety
- d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
- e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WH&S Act in relation to the same matter.

## Land use planning, development assessment and other regulatory functions

### Work health and safety

3.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WH&S Act). You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:

3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

- 3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

### Binding caucus votes

- 3.15 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.16 For the purposes of clause 3.15, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.17 Clause 3.15 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.18 Clause 3.15 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

### Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
  - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
  - c) deliberately seek to impede the consideration of business at a meeting.

**Part 4:**

**Pecuniary Interests**





## What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- a) your interest, or
  - b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- a) Your "relative" is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

## What interests do not have to be disclosed?

- 4.6 You do not have to disclose the following interests for the purposes of this Part:
- a) your interest as an elector
  - b) your interest as a ratepayer or person liable to pay a charge
  - c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
  - d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code

- e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
  - f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
  - g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
  - h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
  - i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
    - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
    - ii) security for damage to footpaths or roads
    - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
  - j) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
  - k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the LGA
  - l) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
  - m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
  - n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
  - o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.
- 4.7 For the purposes of clause 4.6, “relative” has the same meaning as in clause 4.4, but includes your spouse or de facto partner.



## What disclosures must be made by a designated person?

### 4.8 Designated persons include:

- a) the general manager
- b) other senior staff of the council for the purposes of section 332 of the LGA
- c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

### 4.9 A designated person:

- a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- b) must disclose pecuniary interests in accordance with clause 4.10.

4.10 A designated person must disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

4.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.

4.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

## What disclosures must be made by council staff other than designated persons?

4.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.

4.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

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## What disclosures must be made by council advisers?

- 4.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.
- 4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

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## What disclosures must be made by a council committee member?

- 4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.
- 4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council who is a member of the committee.

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## What disclosures must be made by a councillor?

- 4.20 A councillor:
- a) must prepare and submit written returns of interests in accordance with clause 4.21, and

- b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

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## Disclosure of interests in written returns

- 4.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- a) becoming a councillor or designated person, and
  - b) 30 June of each year, and
  - c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- a) they made and lodged a return under that clause in the preceding 3 months, or
  - b) they have ceased to be a councillor or designated person in the preceding 3 months.
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The general manager must keep a register of returns required to be made and lodged with the general manager.

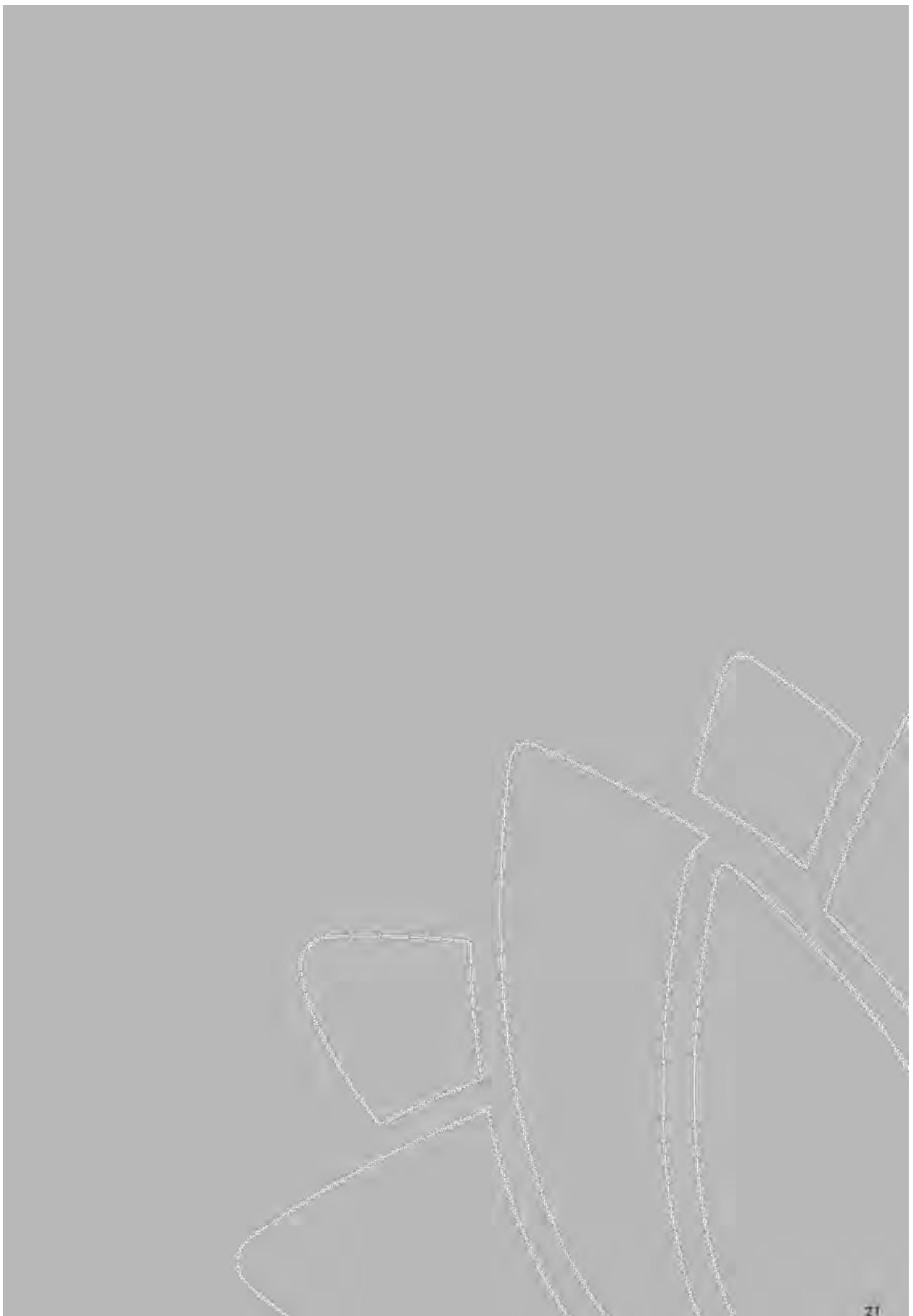
- 4.25 Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009, the Government Information (Public Access) Regulation 2009 and any guidelines issued by the Information Commissioner.

## Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.29 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:
  - a) at any time during which the matter is being considered or discussed by the council or committee, or
  - b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
  - a) a member of, or in the employment of, a specified company or other body, or
  - b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- a) the matter is a proposal relating to:
    - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
  - b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
  - c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.
- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
  - b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.
- 4.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - b) that it is in the interests of the electors for the area to do so.
- 4.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.







**Part 5:**  
**Non-Pecuniary Conflicts**  
**of Interest**





## What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

## Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as

practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.

- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
  - a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
  - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship

- c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation
  - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
  - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
  - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
  - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.
- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

## Political donations

- 5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
  - b) the major political donor has a matter before council,
- you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.17 For the purposes of this Part:
- a) a "reportable political donation" has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
  - b) "major political donor" has the same meaning as it has in the *Electoral Funding Act 2018*.
- 5.18 Councillors should note that political donations that are not a "reportable political donation", or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.
- 5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

## Loss of quorum as a result of compliance with this Part

- 5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:
- a) the matter is a proposal relating to:
    - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
  - b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
  - c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.
- 5.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - b) that it is in the interests of the electors for the area to do so.
- 5.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 5.21, the councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

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## Other business or employment

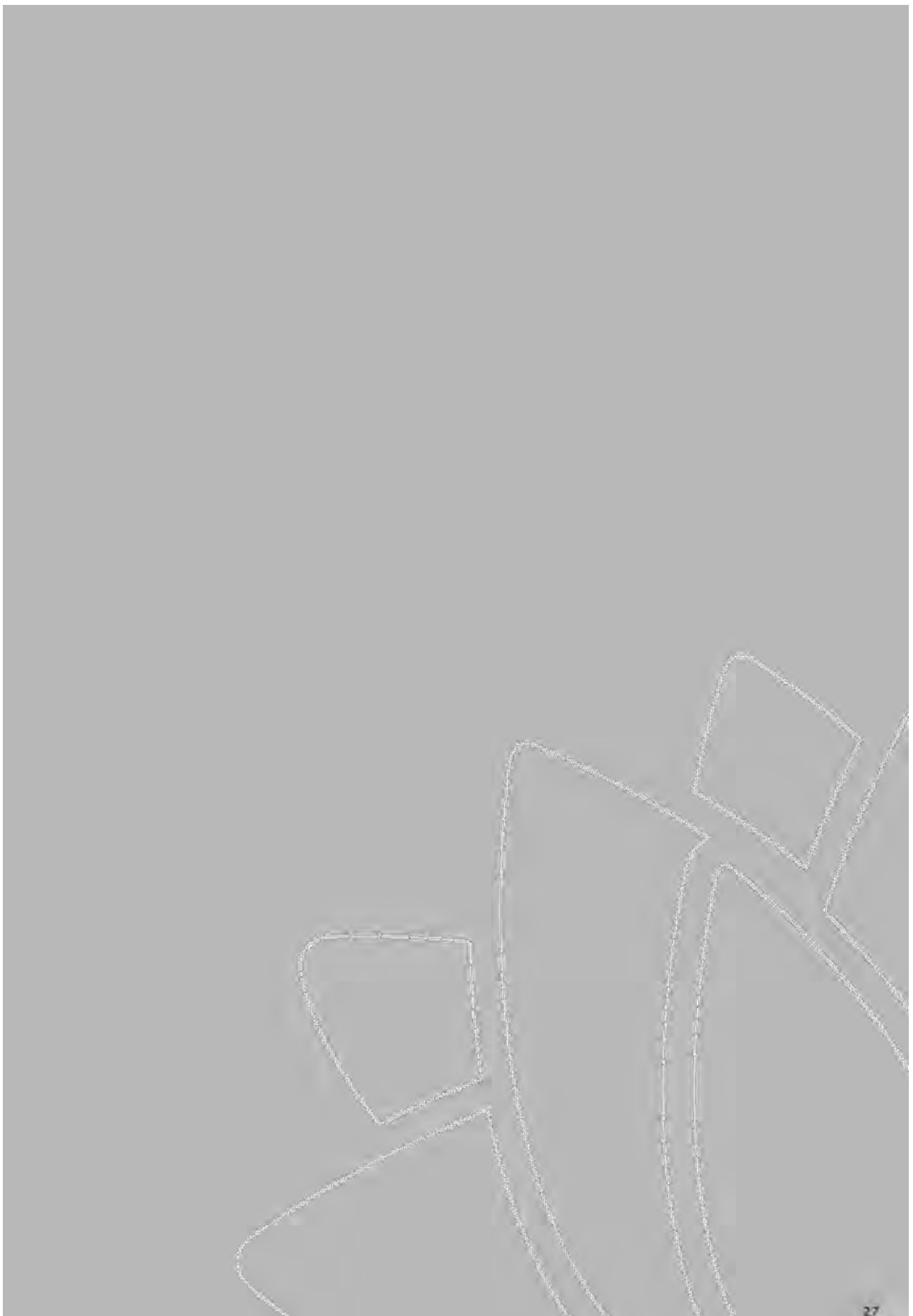
- 5.23 The general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.
- 5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the general manager in writing of the employment, work or business and the general manager has given their written approval for the staff member to engage in the employment, work or business.
- 5.25 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.

- 5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:
- a) conflict with their official duties
  - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
  - c) require them to work while on council duty
  - d) discredit or disadvantage the council
  - e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

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## Personal dealings with council

- 5.28 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 5.29 You must undertake any personal dealings you have with the council in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.







**Part 6:**  
**Personal Benefit**



- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not include:
- a) a political donation for the purposes of the *Electoral Funding Act 2018*
  - b) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
  - c) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
  - d) free or subsidised meals, beverages or refreshments of token value provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
    - i) the discussion of official business
    - ii) work-related events such as council-sponsored or community events, training, education sessions or workshops
    - iii) conferences
    - iv) council functions or events
    - v) social functions organised by groups, such as council committees and community organisations.

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## Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

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## How are offers of gifts and benefits to be dealt with?

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind
  - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
  - e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
  - f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer-supplier relationship with the competition organiser
  - g) personally benefit from reward points programs when purchasing on behalf of the council.

6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager, or general manager must ensure that, at a minimum, the following details are recorded in the council's gift register:

- a) the nature of the gift or benefit
- b) the estimated monetary value of the gift or benefit
- c) the name of the person who provided the gift or benefit, and
- d) the date on which the gift or benefit was received.

6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

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## Gifts and benefits of token value

6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:

- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50
- b) gifts of alcohol that do not exceed a value of \$50
- c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- d) prizes or awards that do not exceed \$50 in value.

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## Gifts and benefits of more than token value

6.9 Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.

6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.

6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

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### **“Cash-like gifts”**

- 6.13 For the purposes of clause 6.5(e), “cash-like gifts” include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

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### **Improper and undue influence**

- 6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.
- 6.15 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.



**Part 7:**  
**Relationships Between**  
**Council Officials**

## Obligations of councillors and administrators

- 7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 7.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the mayor or administrator exercising their functions under section 226 of the LGA
  - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
  - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
  - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the mayor or administrator exercising their functions under section 226 of the LGA.

- 7.3 Despite clause 7.2, councillors may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement committee to effectively perform their functions.

## Obligations of staff

- 7.4 Under section 335 of the LGA, the role of the general manager includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the council and ensuring that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.5 Members of staff of council must:
- a) give their attention to the business of the council while on duty
  - b) ensure that their work is carried out ethically, efficiently, economically and effectively
  - c) carry out reasonable and lawful directions given by any person having authority to give such directions
  - d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them
  - e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

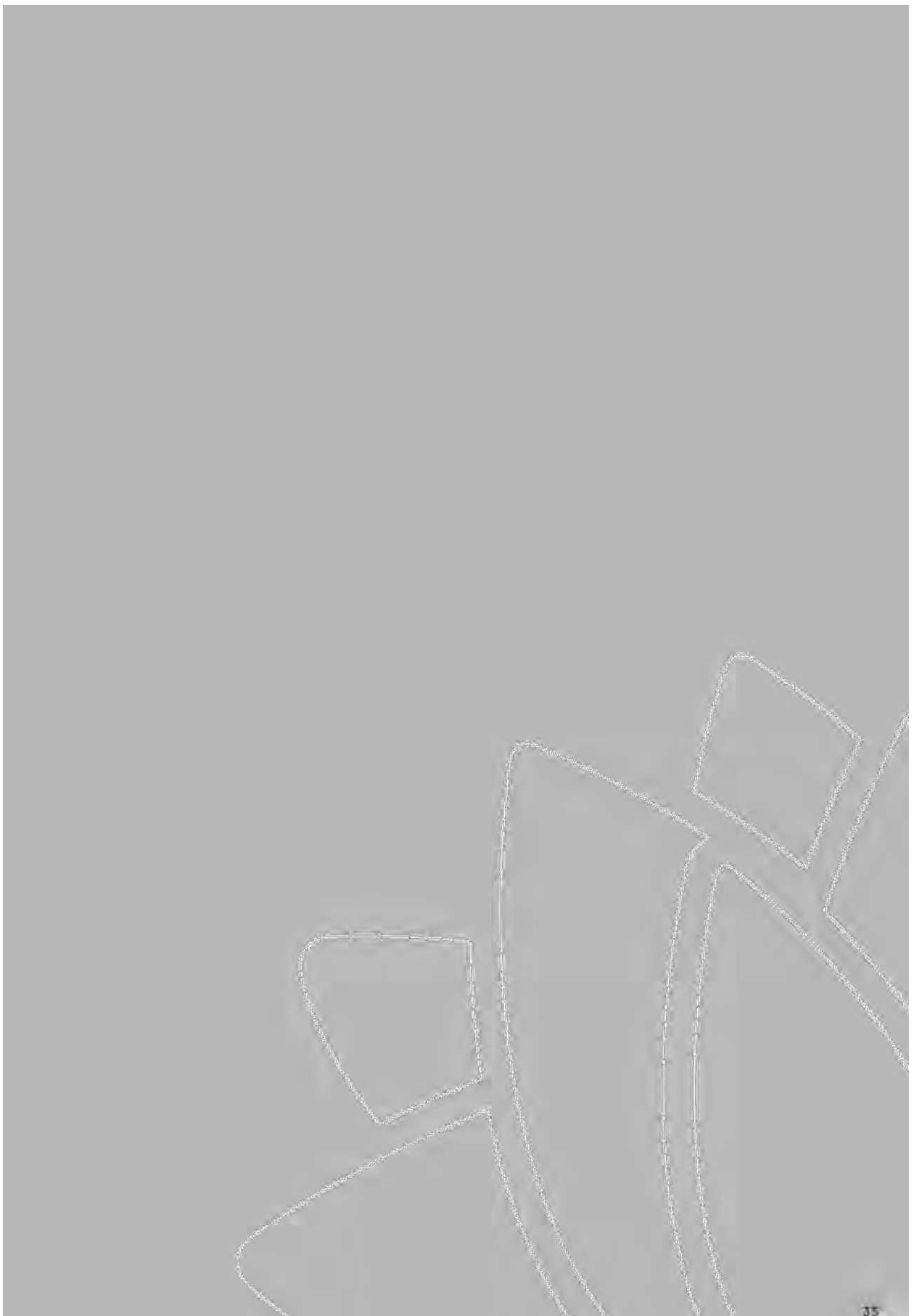


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## Inappropriate interactions

- 7.6 You must not engage in any of the following inappropriate interactions:
- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
  - b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
  - c) subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
  - d) councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
  - e) councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor has a right to be heard by the panel at the meeting
  - f) councillors and administrators being overbearing or threatening to council staff
  - g) council staff being overbearing or threatening to councillors or administrators
  - h) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
  - i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
  - j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
  - k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
  - l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.





**Part 8:**

**Access to Information and  
Council Resources**

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## Councillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise

available to members of the public, or the council has determined to make the information available under the GIPA Act.

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## Councillors and administrators to properly examine and consider information

- 8.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

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## Refusal of access to information

- 8.8 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The general manager or public officer must state the reasons for the decision if access is refused.

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## Use of certain council information

- 8.9 In regard to information obtained in your capacity as a council official, you must:
- a) subject to clause 8.14, only access council information needed for council business
  - b) not use that council information for private purposes
  - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with council
  - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

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## Use and security of confidential information

- 8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 8.11 In addition to your general obligations relating to the use of council information, you must:
- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
  - b) protect confidential information
  - c) only release confidential information if you have authority to do so
  - d) only use confidential information for the purpose for which it is intended to be used

- e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body
- g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

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## Personal information

- 8.12 When dealing with personal information you must comply with:
- a) the *Privacy and Personal Information Protection Act 1998*
  - b) the *Health Records and Information Privacy Act 2002*
  - c) the Information Protection Principles and Health Privacy Principles
  - d) the council's privacy management plan
  - e) the Privacy Code of Practice for Local Government

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## Use of council resources

- 8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.

8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) the representation of members with respect to disciplinary matters
- b) the representation of employees with respect to grievances and disputes
- c) functions associated with the role of the local consultative committee.

8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.

8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.

8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:

- a) for the purpose of assisting your election campaign or the election campaign of others, or
- b) for other non-official purposes.

8.19 You must not convert any property of the council to your own use unless properly authorised.

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## Internet access

8.20 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the council's reputation.

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## Council record keeping

8.21 You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.

8.22 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the council's approved records management policies and practices.

8.23 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.

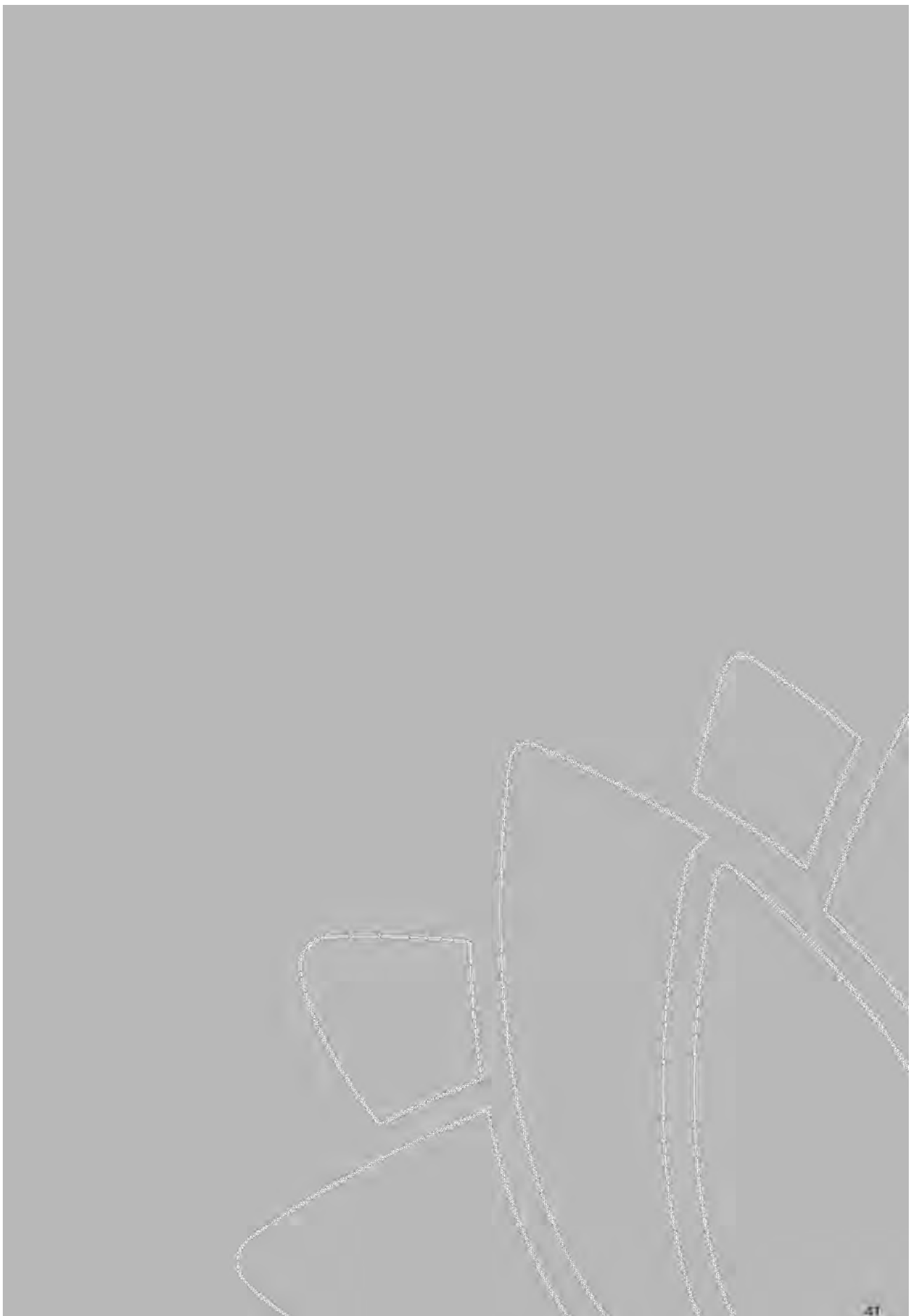
8.24 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the *State Records Act 1998*.




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## Councillor access to council buildings

- 8.25 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 8.26 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.
- 8.27 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.





**Part 9:**  
**Maintaining the Integrity**  
**of this Code**



## Complaints made for an improper purpose

- 9.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.
- 9.2 For the purposes of clause 9.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another council official
  - b) to damage another council official's reputation
  - c) to obtain a political advantage
  - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under the Procedures
  - g) to take reprisal action against a person for making a complaint alleging a breach of this code
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
  - i) to prevent or disrupt the effective administration of this code under the Procedures.

## Detrimental action

- 9.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.
- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 9.5 For the purposes of clauses 9.3 and 9.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

## Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.

- 9.8 You must comply with a practice ruling made by the Office under the Procedures.
- 9.9 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

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## Disclosure of information about the consideration of a matter under the Procedures

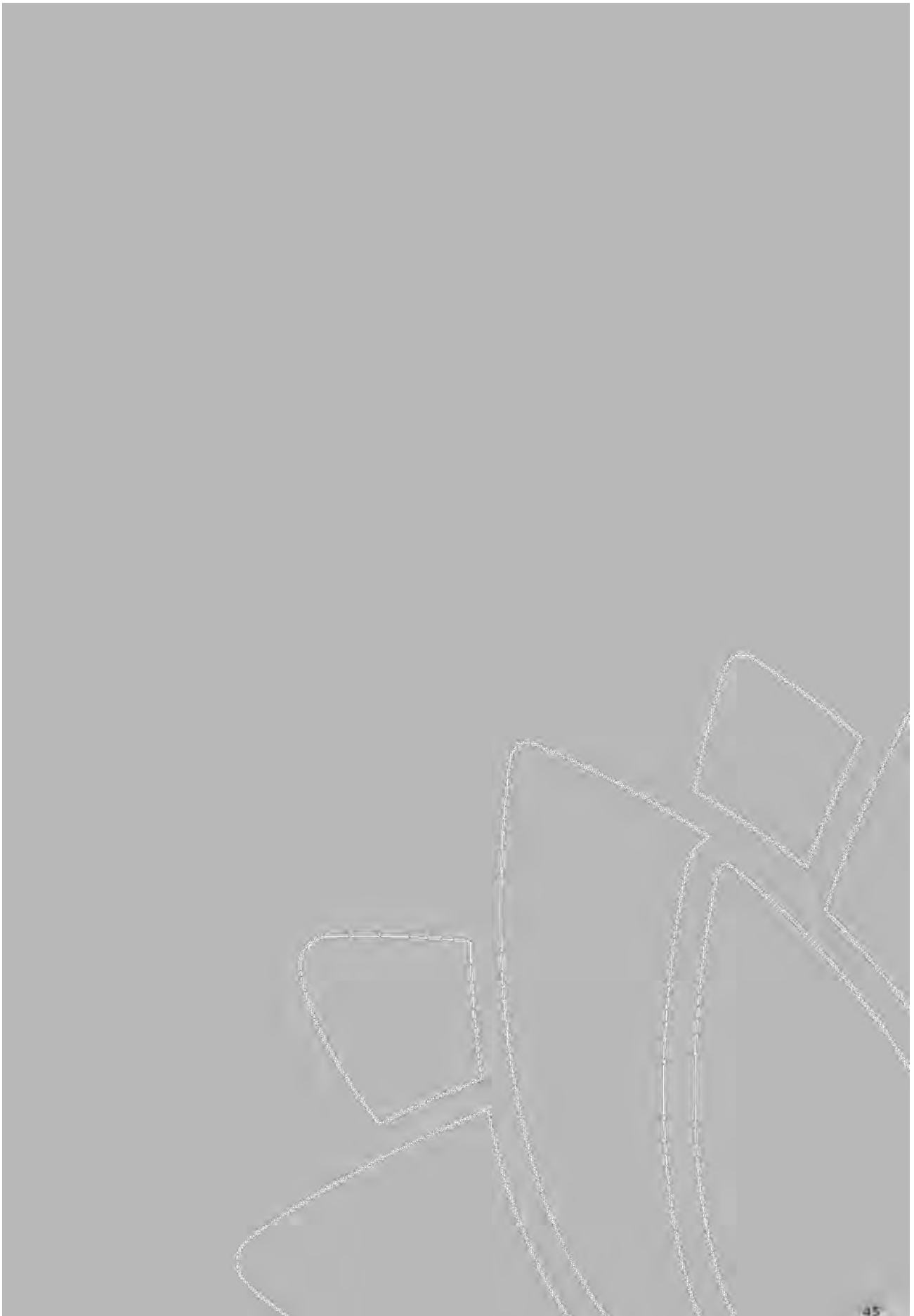
- 9.10 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.11 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.12 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.13 You must not disclose information about a complaint you have made alleging a breach of this code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.14 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

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## Complaints alleging a breach of this Part

- 9.15 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.
- 9.16 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.





**Schedule 1:**

**Disclosures of Interest and Other  
Matters in Written Returns  
Submitted Under Clause 4.21**

# Part 1: Preliminary

## Definitions

1. For the purposes of the schedules to this code, the following definitions apply:

*address* means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

*de facto partner* has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

*disposition of property* means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property

- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

*gift* means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

*interest* means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

*listed company* means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

*occupation* includes trade, profession and vocation.

*professional or business association* means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

*property* includes money.

*return date* means:

- a) in the case of a return made under clause 4.21(a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.21(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.21(c), the date on which the councillor or designated person became aware of the interest to be disclosed.

*relative* includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

*travel* includes accommodation incidental to a journey.

## Matters relating to the interests that must be included in returns

- 2. *Interests etc. outside New South Wales:* A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
- 3. *References to interests in real property:* A reference in this schedule or in schedule 2 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.
- 4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

## Part 2: Pecuniary interests to be disclosed in returns

### Real property

5. A person making a return under clause 4.21 of this code must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

### Gifts

9. A person making a return under clause 4.21 of this code must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
  - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

### Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
  - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.

13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
  - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
  - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

## Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
  - c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and
  - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.



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## Interests as a property developer or a close associate of a property developer

19. A person making a return under clause 4.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.

20. For the purposes of clause 19 of this schedule:

*close associate*, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.

*property developer* has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

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## Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
  - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
  - c) a description of the position held in each of the unions and associations.

22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

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## Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.

24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.

25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

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## Sources of income

26. A person making a return under clause 4.21 of this code must disclose:
- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
  - b) each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- a) in relation to income from an occupation of the person:
    - i) a description of the occupation, and
    - ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
    - iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
  - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
  - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

---

## Debts

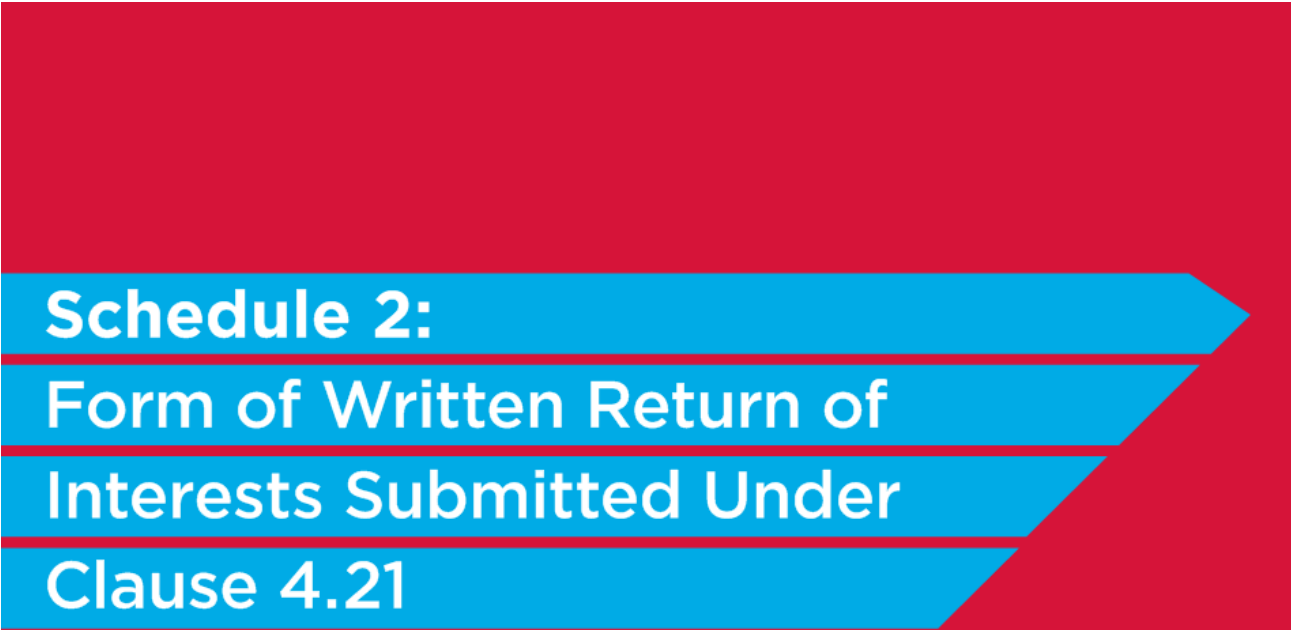
31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
  - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:

- i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
  - ii) the amounts to be paid exceeded, in the aggregate, \$500, or
- b) the person was liable to pay the debt to a relative, or
- c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
- d) in the case of a debt arising from the supply of goods or services:
- i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
  - ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
- e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

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## Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.



**Schedule 2:  
Form of Written Return of  
Interests Submitted Under  
Clause 4.21**

## 'Disclosures by councillors and designated persons' return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

## Important information

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 4.23 of the Model Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the general manager in a register of returns. The general manager is required to table all returns at a council meeting.

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

Disclosure of pecuniary interests and other matters by *[full name of councillor or designated person]*

as at *[return date]*

in respect of the period from *[date]* to *[date]*

*[councillor's or designated person's signature]*

*[date]*

**A. Real Property**

Street address of each parcel of real property in which I had an interest at the return date/at any time since 30 June	Nature of interest
--	--------------------

**B. Sources of income**

1 Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from an occupation at any time since 30 June

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)
---------------------------	--	--

2 Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee
-----------------------------	-----------------------------

3 Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June

Sources of other income I received at any time since 30 June

*[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]*

**C. Gifts**

Description of each gift I received at any time since 30 June	Name and address of donor
---	---------------------------



**D. Contributions to travel**

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken
---	--------------------------------------	---

**E. Interests and positions in corporations**

Name and address of each corporation in which I had an interest or held a position at the return date/at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
---	-----------------------------	----------------------------------	---

**F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)**

**G. Positions in trade unions and professional or business associations**

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June	Description of position
---	-------------------------

**H. Debts**

Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June

**I. Dispositions of property**

1 Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time

2 Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property

**J. Discretionary disclosures**

**Schedule 3:  
Form of Special Disclosure of  
Pecuniary Interest Submitted  
Under Clause 4.37**

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

---

## Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

**Special disclosure of pecuniary interests by** *[full name of councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the *[name of council or council committee (as the case requires)]*

to be held on the      day of      20 .

**Pecuniary interest**

**Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)**

Relationship of identified land to councillor  
*[Tick or cross one box.]*

- The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise).
- An associated person of the councillor has an interest in the land.
- An associated company or body of the councillor has an interest in the land.

**Matter giving rise to pecuniary interest:**

Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land)<sup>2</sup>

*[Tick or cross one box]*

- The identified land.
- Land that adjoins or is adjacent to or is in proximity to the identified land.

Current zone/planning control

*[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]*

- 1 Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.
- 2 A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

---

*Proposed change of zone/planning control*

*[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]*

---

Effect of proposed change of zone/planning control on councillor or associated person

*[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]*

---

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]*

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]





Procedures for the  
Administration of

# The Model Code of Conduct

for Local Councils in NSW

2018



**PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW**

2018

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**Part 1:**  
**Introduction**

These procedures ("the Model Code Procedures") are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct").

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* ("the LGA") and the *Local Government (General) Regulation 2005* ("the Regulation"). Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

The Model Code Procedures are made under section 440AA of the LGA and the Regulation. Section 440AA of the LGA requires every council (including county councils) and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils and joint organisations may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

Note: References in these procedures to councils are also to be taken as references to county councils and joint organisations.

Note: In adopting the Model Code Procedures, joint organisations should adapt them to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

Note: In adopting the Model Code Procedures, county councils should adapt them to substitute the term "chairperson" for "mayor" and "member" for "councillor".

Note: Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the mayor) or the general manager.



# Part 2: Definitions

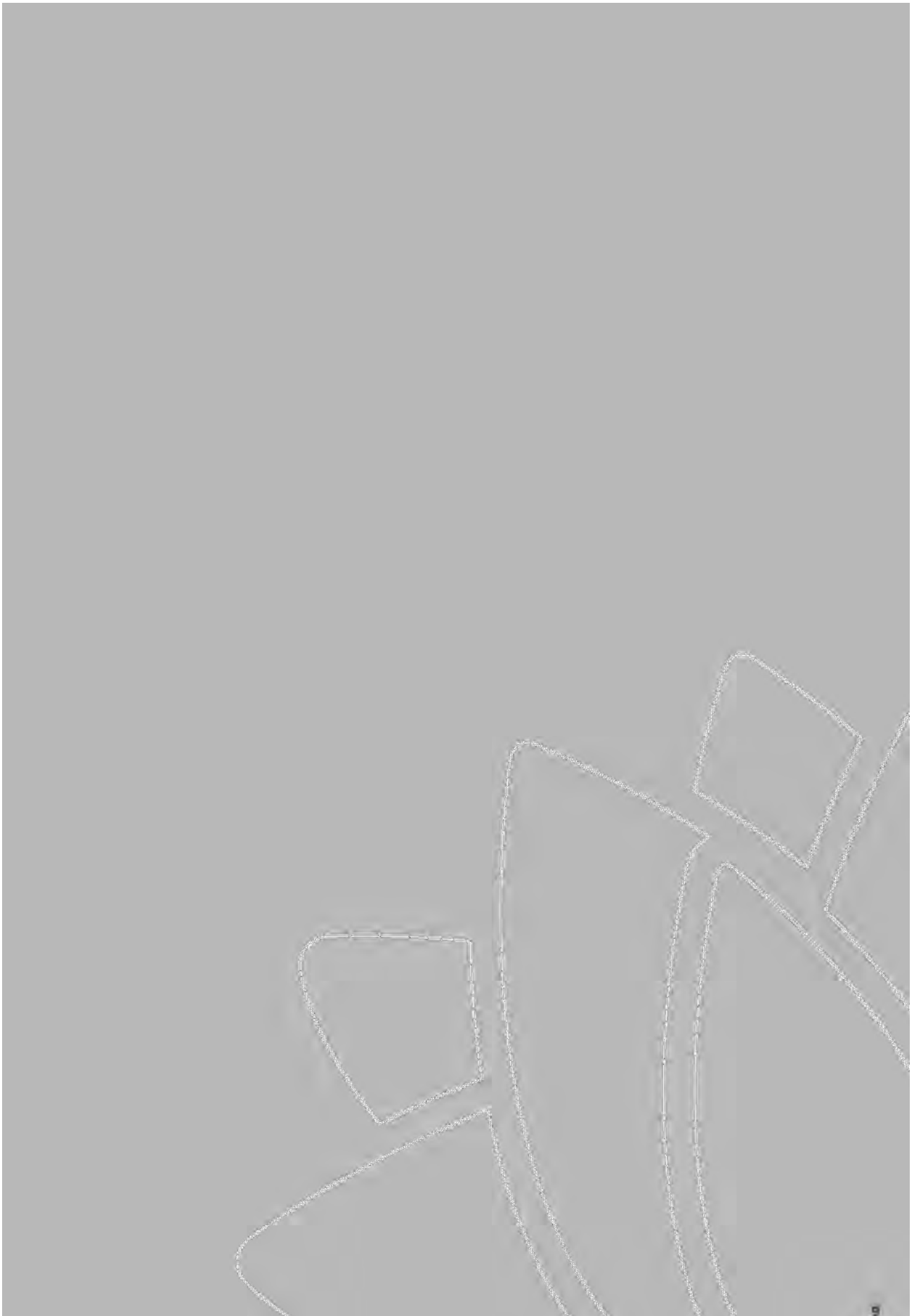





In these procedures the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee
councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
council official	any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
external agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
general manager	includes the executive officer of a joint organisation
ICAC	the Independent Commission Against Corruption
investigator	a conduct reviewer
joint organisation	a joint organisation established under section 4000 of the LGA

LGA	the <i>Local Government Act 1993</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to





**Part 3:**  
**Administrative**  
**Framework**



## The establishment of a panel of conduct reviewers

- 3.1 The council must by resolution establish a panel of conduct reviewers.
- 3.2 The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
- a) an understanding of local government, and
  - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
  - c) knowledge and experience of one or more of the following:
    - i) investigations
    - ii) law
    - iii) public administration
    - iv) public sector ethics
    - v) alternative dispute resolution, and
  - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
- a) a councillor, or
  - b) a nominee for election as a councillor, or
  - c) an administrator, or
  - d) an employee of a council, or
  - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.
- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time by resolution. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.

- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

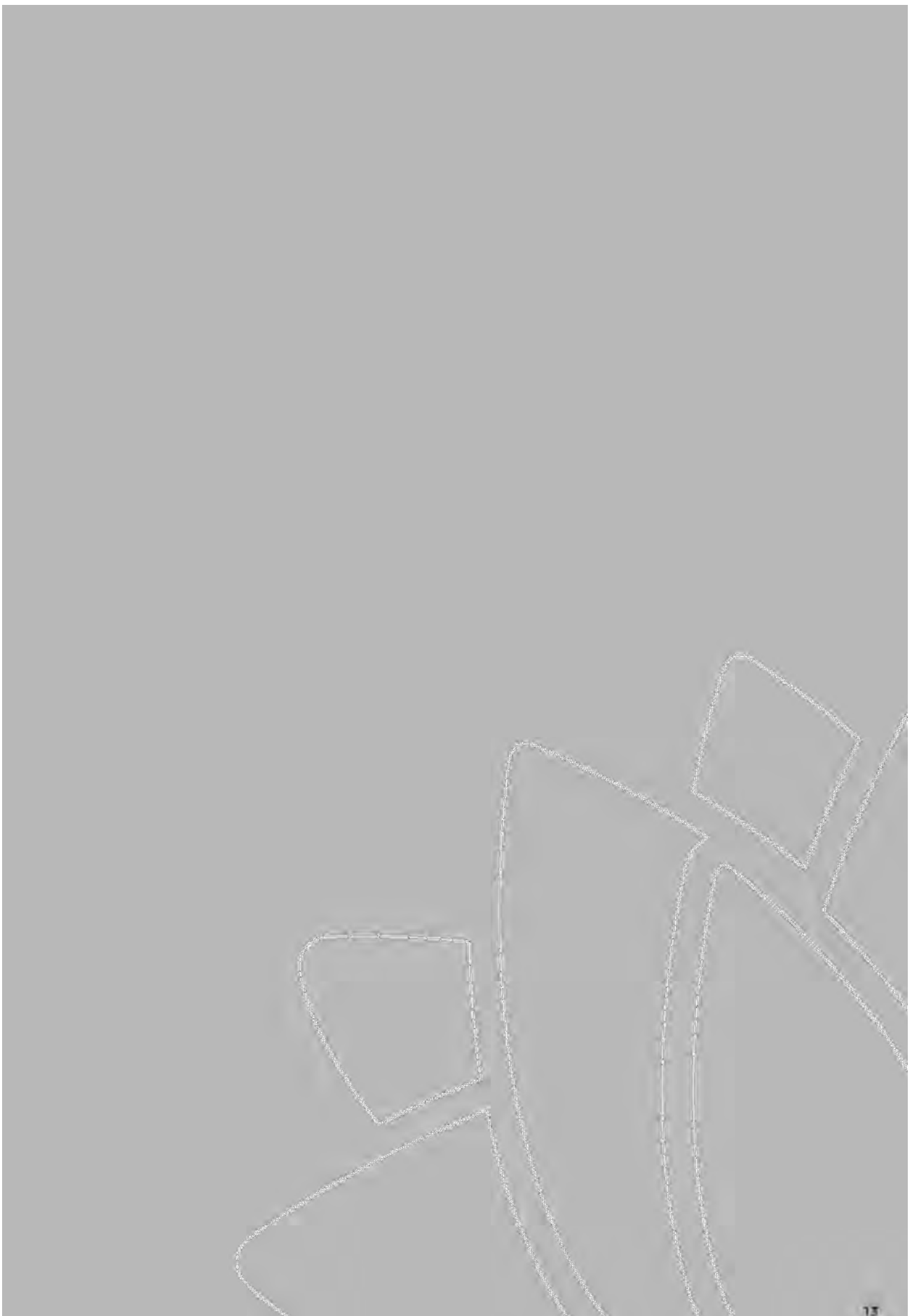
## The appointment of an internal ombudsman to a panel of conduct reviewers

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.
- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.
- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

## The appointment of complaints coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The general manager must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
- a) coordinate the management of complaints made under the council's code of conduct
  - b) liaise with and provide administrative support to a conduct reviewer
  - c) liaise with the Office and
  - d) arrange the annual reporting of code of conduct complaints statistics.





**Part 4:**

**How May Code of Conduct  
Complaints be Made?**



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## What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
- a) complaints about the standard or level of service provided by the council or a council official
  - b) complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
  - c) complaints about the policies or procedures of the council
  - d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under the council's routine complaints management processes.

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## When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the general manager or their delegate, or, in the case of a complaint about the general manager, the mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct.

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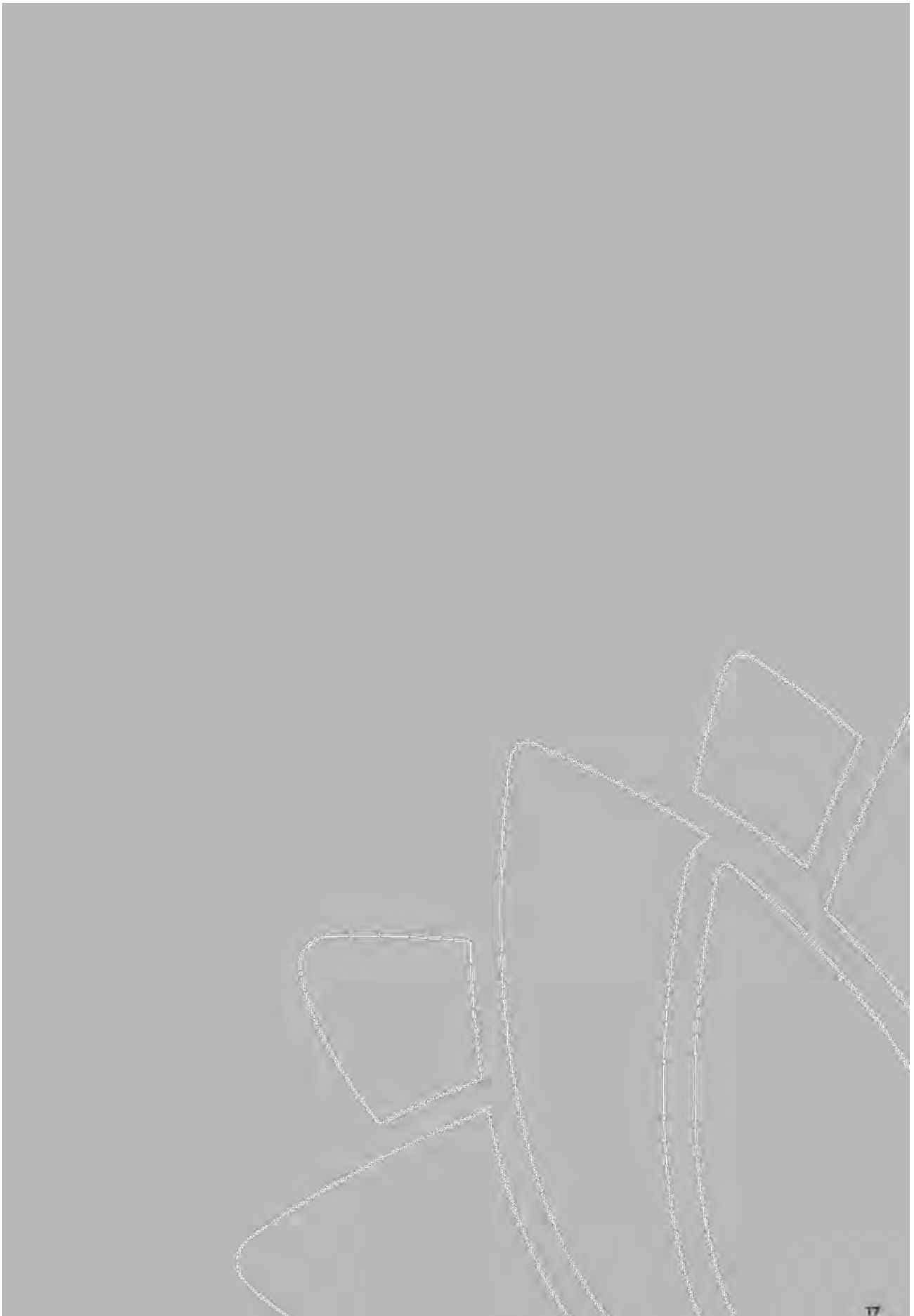
## **How may a code of conduct complaint about a council official other than the general manager be made?**

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The general manager or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the general manager becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

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## **How may a code of conduct complaint about the general manager be made?**

- 4.11 Code of conduct complaints about the general manager are to be made to the mayor in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The mayor or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.15 Notwithstanding clauses 4.11 and 4.12, where the mayor becomes aware of a possible breach of the council's code of conduct by the general manager, they may initiate the process for the consideration of the matter under these procedures without a written complaint.



**Part 5:**

**How are Code of Conduct  
Complaints to be Managed?**





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## Delegation by general managers and mayors of their functions under this Part

5.1 A general manager or mayor may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the general manager or mayor are also to be taken to be references to their delegates.

- d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
- e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

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## Consideration of complaints by general managers and mayors

5.2 In exercising their functions under this Part, general managers and mayors may consider the complaint assessment criteria prescribed under clause 6.31.

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## How are code of conduct complaints about staff (other than the general manager) to be dealt with?

5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.

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## What complaints may be declined at the outset?

5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:

- a) is not a code of conduct complaint, or
- b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
- c) is trivial, frivolous, vexatious or not made in good faith, or

5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.

5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.

5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.

- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

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## How are code of conduct complaints about delegates of council, council advisers and council committee members to be dealt with?

- 5.10 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office

under clause 5.11 where they consider that no action is warranted in relation to the complaint.

- 5.13 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the general manager resolves a code of conduct complaint under clause 5.14 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
  - a) censure

- b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
  - c) prosecution for any breach of the law
  - d) removing or restricting the person's delegation
  - e) removing the person from membership of the relevant council committee.
- 5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
  - b) the person must be given an opportunity to respond to the allegation, and
  - c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

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## **How are code of conduct complaints about administrators to be dealt with?**

- 5.18 The general manager must refer all code of conduct complaints about administrators to the Office for its consideration.

- 5.19 The general manager must notify the complainant of the referral of their complaint in writing.

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## **How are code of conduct complaints about councillors to be dealt with?**

- 5.20 The general manager must refer the following code of conduct complaints about councillors to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
  - b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)
  - c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
  - d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.21 Where the general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.
- 5.22 The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.

- 5.23 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

## How are code of conduct complaints about the general manager to be dealt with?

- 5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
  - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
  - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.
- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.



- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

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## How are complaints about both the general manager and the mayor to be dealt with?

- 5.34 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:
- delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager where the allegation is not serious, or to a person external to the council, or
  - refer the matter to the complaints coordinator under clause 5.26 and clause 5.33.

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## Referral of code of conduct complaints to external agencies

- 5.35 The general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The general manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.

5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.

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## Disclosure of the identity of complainants

5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:

- a) the complainant consents in writing to the disclosure, or
- b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
- c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
- d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
- e) it is otherwise in the public interest to do so.

5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.

5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.

5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.

5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.

5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

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## Code of conduct complaints made as public interest disclosures

5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

5.46 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these



procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.

- 5.47 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the general manager or the mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

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## Special complaints management arrangements

- 5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
  - b) impeded or disrupted the effective administration by the council of its code of conduct, or
  - c) impeded or disrupted the effective functioning of the council.

- 5.50 A special complaints management arrangement must be in writing and must specify the following:

- a) the code of conduct complaints the arrangement relates to, and
- b) the period that the arrangement will be in force.

- 5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.

- 5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.

- 5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.

- 5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the general manager, review the arrangement to determine whether it should be renewed or amended.

- 5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.

**Part 6:**

**Preliminary Assessment of  
Code of Conduct Complaints  
About Councillors or the  
General Manager by  
Conduct Reviewers**

## **Referral of code of conduct complaints about councillors or the general manager to conduct reviewers**

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
  - b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
  - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
  - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
  - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven

breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.

- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
  - a) comply with these procedures in their consideration of the matter, or
  - b) comply with a lawful and reasonable request by the complaints coordinator, or
  - c) exercise their functions in a timely or satisfactory manner.
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

## **Preliminary assessment of code of conduct complaints about councillors or the general manager by a conduct reviewer**

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
  - a) to take no action
  - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - d) to refer the matter to an external agency
  - e) to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.

Councillors or the General Manager by Conduct Reviewers

- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
  - b) that the alleged conduct is sufficiently serious to warrant investigation, and
  - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant investigation, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
  - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
  - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
  - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.



## Referral back to the general manager or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

## Complaints assessment criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
- a) whether the complaint is a code of conduct complaint for the purpose of these procedures
  - b) whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's code of conduct
  - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
  - d) whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
  - e) whether the complaint raises issues that would be more appropriately dealt with by an external agency
  - f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
  - g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - h) whether the issue/s giving rise to the complaint have previously been addressed or resolved



- i) any previous proven breaches of the council's code of conduct
- j) whether the conduct complained of forms part of an ongoing pattern of behaviour
- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

**Part 7:**

**Investigations of Code of  
Conduct Complaints About  
Councillors or the  
General Manager**

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## What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

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## How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
  - a) disclose the substance of the allegations against the respondent, and
  - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
  - c) advise of the process to be followed in investigating the matter, and

- d) advise the respondent of the requirement to maintain confidentiality, and
  - e) invite the respondent to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice, and
  - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
  - 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
  - 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within at least 14 days or such other period specified by the investigator in the amended notice.
  - 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:

- a) advise them of the matter the investigator is investigating, and
- b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
- c) invite the complainant to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice.

7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.

7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

## Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.

## How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

## Referral or resolution of a matter after the commencement of an investigation

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - c) refer the matter to an external agency.
- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.

- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

## Draft investigation reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.



- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.
- a) make findings of fact in relation to the matter investigated, and,
- b) make a determination that the conduct investigated either,
- i) constitutes a breach of the code of conduct, or
  - ii) does not constitute a breach of the code of conduct, and
- c) provide reasons for the determination.
- 7.36 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a) that the council revise any of its policies, practices or procedures
  - b) that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
  - c) that the respondent be counselled for their conduct
  - d) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
  - e) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the recommendation
  - f) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation
  - g) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the council meeting at which the matter is considered

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## Final investigation reports

- 7.33 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:



- h) in the case of a breach by the general manager, that action be taken under the general manager’s contract
  - i) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
  - j) in the case of a breach by a councillor, that the council resolves as follows:
    - i) that the councillor be formally censured for the breach under section 440G of the LGA, and
    - ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.37 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a) that the council revise any of its policies, practices or procedures
  - b) that a person or persons undertake any training or other education.
- 7.38 In making a recommendation under clause 7.36, the investigator may have regard to the following:
- a) the seriousness of the breach
  - b) whether the breach can be easily remedied or rectified
  - c) whether the respondent has remedied or rectified their conduct
  - d) whether the respondent has expressed contrition
  - e) whether there were any mitigating circumstances
  - f) the age, physical or mental health or special infirmity of the respondent
- g) whether the breach is technical or trivial only
  - h) any previous proven breaches
  - i) whether the breach forms part of an ongoing pattern of behaviour
  - j) the degree of reckless intention or negligence of the respondent
  - k) the extent to which the breach has affected other parties or the council as a whole
  - l) the harm or potential harm to the reputation of the council or local government in general arising from the conduct
  - m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
  - n) whether an educative approach would be more appropriate than a punitive one
  - o) the relative costs and benefits of taking formal disciplinary action as opposed to taking no action or taking informal action
  - p) what action or remedy would be in the public interest.
- 7.39 Where the investigator proposes to make a recommendation under clause 7.36(j), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.
- 7.40 At a minimum, the investigator’s final report must contain the following information:
- a) a description of the allegations against the respondent

- b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
  - c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
  - d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
  - e) a description of any attempts made to resolve the matter by use of alternative means
  - f) the steps taken to investigate the matter
  - g) the facts of the matter
  - h) the investigator’s findings in relation to the facts of the matter and the reasons for those findings
  - i) the investigator’s determination and the reasons for that determination
  - j) any recommendations.
- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator’s findings in relation to the facts of the matter and the reasons for those findings
  - b) the investigator’s determination and the reasons for that determination
  - c) any recommendations, and
  - d) such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator’s report to the general manager or, where the report relates to the general manager’s conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraph (a) only, the complaints coordinator must provide a copy of the investigator’s report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.
- 7.45 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (b) or (c) only, the complaints coordinator must provide a copy of the investigator’s report to the general manager or, where the report relates to the general manager’s conduct, to the mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor’s conduct. The mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager’s conduct.
- 7.46 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)),

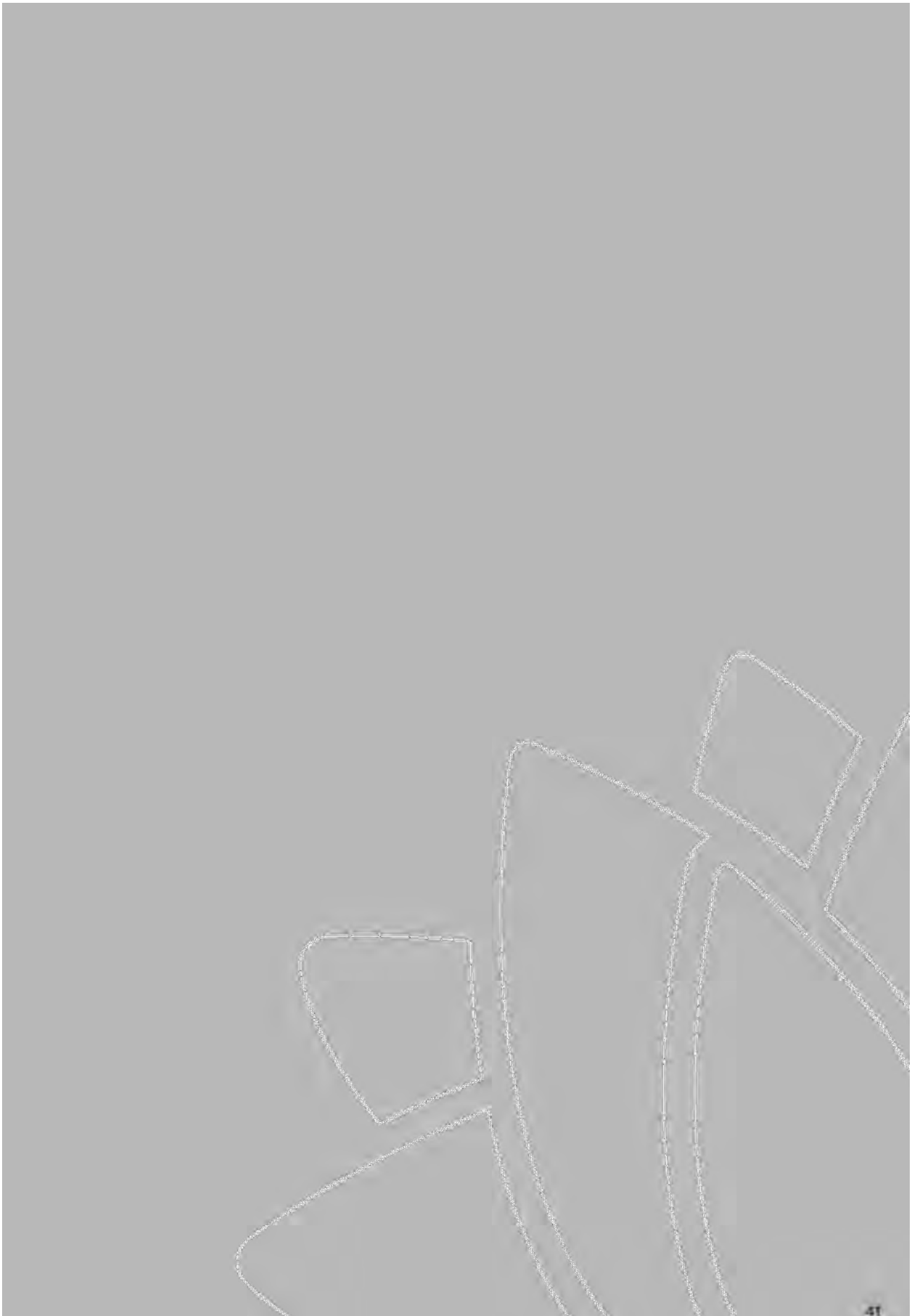
the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

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### **Consideration of the final investigation report by council**

- 7.47 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)).
- 7.48 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.49 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.50 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation/s.
- 7.51 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.
- 7.52 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 7.53 Prior to imposing a sanction, the council may by resolution:
  - a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
  - b) seek an opinion from the Office in relation to the report.
- 7.54 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.55 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.56 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.
- 7.57 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.58 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.59 A council may by resolution impose one or more of the following sanctions on a respondent:

- a) that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
  - b) that the respondent be counselled for their conduct
  - c) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
  - d) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the resolution
  - e) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the resolution
  - f) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the meeting
  - g) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach
  - h) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
  - i) in the case of a breach by a councillor:
    - i) that the councillor be formally censured for the breach under section 440G of the LGA, and
    - ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.60 The council is not obliged to adopt the investigator's recommendation/s. Where the council proposes not to adopt one or more of the investigator's recommendation/s, the council must resolve not to adopt the recommendation/s and state in its resolution the reasons for its decision.
- 7.61 Where the council proposes to impose a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator in their final report, the council must state in its resolution the reasons for its decision.
- 7.62 Where the council resolves not to adopt the investigator's recommendation/s or imposes a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator, the complaints coordinator must notify the Office of the council's decision and the reasons for it.



**Part 8:**

**Oversight and Rights of Review**





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## The Office's powers of review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.
- 8.2 The Office may direct any person, including the council, to defer taking further action in relation to a matter under consideration under the council's code of conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the complaints coordinator and any other affected persons, of the outcome of the review.

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## Complaints about conduct reviewers

- 8.4 The general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

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## Practice rulings

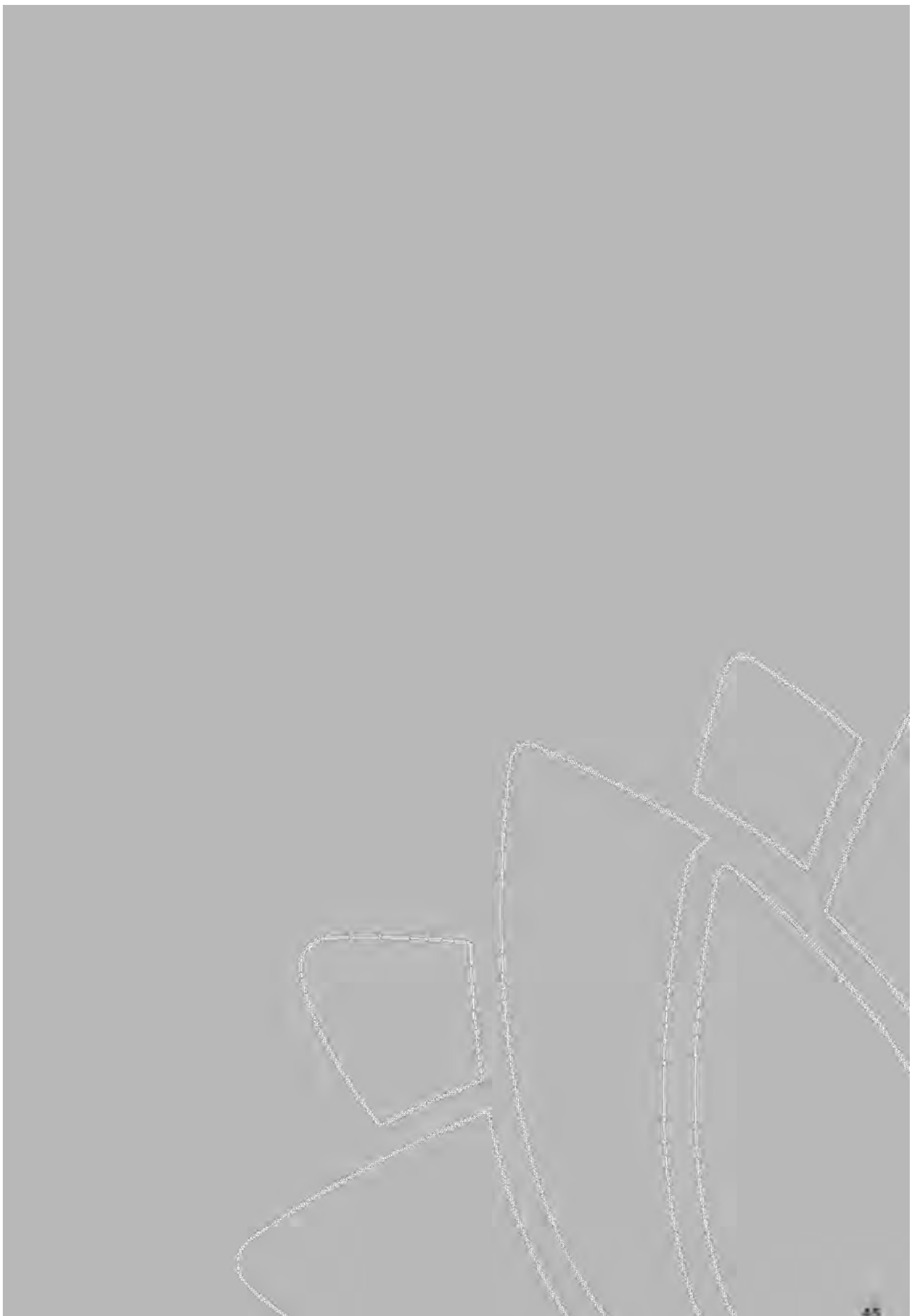
- 8.7 Where a respondent and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.9 Where the Office makes a practice ruling, all parties must comply with it.
- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

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## Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.59, paragraph (i), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
  - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or

- c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed.
- 8.20 In the case of a sanction implemented by the general manager or mayor under clause 7.45, where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must provide a copy of the Office's determination in relation to the matter to the general manager or the mayor, and
  - b) the general manager or mayor must review any action taken by them to implement the sanction, and
  - c) the general manager or mayor must consider the Office's recommendation in doing so.
- 8.21 In the case of a sanction imposed by the council by resolution under clause 7.59, where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
  - b) the council must:
    - i) review its decision to impose the sanction, and
    - ii) consider the Office's recommendation in doing so, and
    - iii) resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 8.22 Where, having reviewed its previous decision in relation to a matter under clause 8.21, the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.




## Part 9:

# Procedural Irregularities



- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- a) the non-compliance is isolated and/or minor in nature, or
  - b) reasonable steps are taken to correct the non-compliance, or
  - c) reasonable steps are taken to address the consequences of the non-compliance.



**Part 10:**  
**Practice Directions**



- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

**Part 11:**

**Reporting Statistics on Code  
of Conduct Complaints  
About Councillors and the  
General Manager**

- 11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
  - b) the number of code of conduct complaints referred to a conduct reviewer during the reporting period
  - c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
  - d) the number of code of conduct complaints investigated by a conduct reviewer during the reporting period
  - e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
  - f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
  - g) the total cost of dealing with code of conduct complaints made about councillors and the general manager during the reporting period, including staff costs.
- 11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.



**Part 12:**  
**Confidentiality**



- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within at least 14 days or such other period specified by the general manager or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant
  - b) the complaints coordinator
  - c) the Office, and
  - d) any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.





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**Policy No:** CS300  
**Policy Title:** Rates and Charges Financial Hardship Policy  
**Section Responsible:** Corporate and Community  
**Minute No:**  
**MagiQ Document No:**  
**Next Review Date:**

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### **Objective**

To provide financial assistance to ratepayers who are experiencing genuine financial hardship with the payment of Council's rates and charges.  
To establish a decision making framework for the assessment of financial hardship applications.

### **Policy Statement**

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This policy establishes guidelines for assessment of a hardship application applying the principles of fairness, integrity, confidentiality and compliance with statutory requirements. It applies to all applications for alternative payment arrangements or writing off rates, fees, annual charges and interest accrued on such debts.

The General Manager has the delegated authority to assess applications due to hardship and payment arrangement plans from any customer after receiving a written request and in cases of genuine hardship each case is to be referred to Council for consideration in accordance with Council's adopted policy.

To establish guidelines for the General Manager and staff when dealing with ratepayers, suffering genuine financial hardship, with the payment of their rates and charges.

To fulfil the statutory requirements of the Local Government Act, 1993 with respect to the ability to grant provision and give special consideration to ratepayers subject to financial hardship.

### **Determination of Eligibility**

The criterion for financial hardship involves an inability of the ratepayer to pay their rates, rather than an unwillingness to do so. Hardship may result from any of, but is not limited to, the following:

- Loss of employment by ratepayer or family member.
- Family breakdown.
- Ongoing or long term illness of the ratepayer or family member.
- Death in the family.

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- Loss of income due to natural disasters or drought.
- High rate levy increase due to revaluation.

To request consideration for a concession under the hardship policy, the ratepayer must submit in writing a signed and dated application stating the nature of the hardship and the estimated period over which the hardship will be experienced.

- Evidence confirming the ratepayer's hardship status must accompany the application in one of the following forms:
  - Evidence in writing from a third party such as the ratepayer's bank manager or accountant;
  - Copy of recent bank statements for all accounts.
  - Evidence in writing from a recognised financial counsellor;
  - Statutory declaration from a person familiar with the ratepayer's circumstances who is qualified to provide Council with a clear, unbiased assessment of the ratepayer's hardship status, such as a carer, power of attorney or a medical practitioner.

Council may request additional information to confirm the ratepayer's hardship status if deemed necessary and may also request the ratepayer attend an interview to assist Council in the understanding of the issues causing hardship. **Interviews if required will be conducted in Council's offices. However; alternate locations may be agreed if requested by the ratepayer.**

#### **Hardship Concession Provisions**

Once the ratepayer has submitted the application, the Revenue Officer will make an assessment based on the merit of the individual case against the eligibility conditions within this policy, and will make a recommendation to the General Manager regarding the actions that may be taken in relation to the particular hardship case. Available options are:

#### **Defer outstanding amounts for a set period of time**

#### **Periodic Payment Arrangements**

Section 564 of the Local Government Act provides that Council may enter into a formal agreement with a ratepayer eligible for alternative periodical payments for due and payable rates and charges. A periodic payment agreement will be offered in accordance with Council's Debt Recovery Policy. Interest will apply unless specifically stated otherwise on outstanding balances but allow ratepayers the required time to make payments without any legal action being undertaken by Council to recover rates and charges.

#### **Charge interest rate of 0% on overdue amounts for a set period of time**

#### **Writing off accrued interest and costs**

Accrued interest on rates or charges payable by a person may be written off under Section 567 of the Local Government Act 1993, if:

- The person was unable to pay the rates or charges when they became due for reasons beyond the person's control,
- The person is unable to pay accrued interest for reasons beyond the person's control, or
- Payment of the accrued interest would cause the person hardship.

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### **Extend pensioner concession to avoid hardship**

Section 577 of the Local Government Act, 1993 enables Council to make an order deeming certain persons who are jointly liable with an eligible pensioner(s) or solely liable, but who are not themselves eligible, to be eligible pensioners for the purpose of a mandatory reduction in rates and charges to avoid hardship.

### **Pensioner Abandonments**

Section 582 of the Local Government Act, 1993 enables Council to waive or reduce rates, charges and accrued interest due by any person prescribed by the regulations who is in receipt of a pension, benefit or allowance under the Social Security Act 1991. Thus, council may, in its absolute discretion, further reduce on a voluntary basis (with no subsidy from the state government) rates and charges otherwise payable by an eligible pensioner. Council may also agree to allow the remainder of pensioners' rates, after concessions have been deducted, to accrue against the future estate or sale of the land in appropriate cases.

### **General Revaluation of the Local Government Area**

- Section 601 of the Local Government Act, 1993 provides that where any ratepayer who suffers substantial hardship as the consequence of the making and levying of a rate following a new valuation, may apply to Council for rate relief.
- Council will not consider hardship applications under this provision, as valuations are independently determined by the NSW Valuer General. Council will encourage ratepayers to make an appropriate application under the appeal provision of the NSW Valuation of Land Act 1916.

### **Assessment Process**

Each case will be considered individually and on its merits and will take into account, but will not be limited to:

- The property for which the hardship application applies must be the principal place of residency of the applicant/s if categorised as "Residential" for rating purposes.
- The property for which the hardship application applies must be categorised as "Residential" or "Farmland" for rating purposes.
- The applicant must be the owner or part owner of the property and be liable for the payment of rates on the property.
- The ratepayer's financial circumstances, including income and expenses from all sources.
- The amount of rates levied compared to the average rates levied of the rate category or sub-category.
- Repayment history, including any previous defaults or arrangements.

Council will consider hardship applications in closed meetings and personal information will remain confidential. The ratepayer will be informed of Council's decision in writing and if not satisfied with the outcome can request the Council to reconsider its decision.

If the ratepayer continues to experience hardship after the concession period approved by Council has expired, then a new application must be made by the ratepayer. In such



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circumstances evidence provided with the initial application may be used to confirm the ratepayer’s hardship status, however Council may request additional information to confirm the ratepayer’s current hardship status if deemed necessary.

**Hardship Concession Termination**

The concessions granted may be withdrawn for any of the following reasons:

- The ratepayer no longer owns the land.
- The ratepayer advises Council that the hardship no longer applies.
- The ratepayer defaults on a payment arrangement if a payment arrangement has been entered into,
- Council receives information that proves the hardship no longer exists.

Where property ownership changes on any assessment with a rate deferral agreement in place, all rates and charges must be fully paid at the point of this change. Hardship concessions are not transferable.

**Scope (who does the policy apply to?)**

This policy applies to eligible ratepayers within the Narrandera Shire Council Local Government area who are experiencing genuine financial difficulties in paying their rates and charges.

**Definitions**

“Farmland” Land categorized as farmland under Local Government Act 1993 Section 515  
 “Residential” Land categorized as Residential under Local Government Act 1993 Section 516

**Related Legislation/Guidelines/Narrandera Policies and Associated Procedures (List them)**

- Local Government Act 1993
- Office of Local Government “Debt Management & Hardship Guidelines” November 2018 ISBN 978-1-922001-76-4

**Policy History**

Endorsed by relevant Committees (name) and date  
 Adopted by ELT  
 Adopted by Council  
 Reviewed  
 Amended

**Authorised Staff to Insert CEO Signature Here**

Signed: General Manager

Date: .....

strengthening local government

Office of Local Government

# DEBT MANAGEMENT AND HARDSHIP GUIDELINES

November 2018



GUIDELINES UNDER SECTION 23A OF THE  
*LOCAL GOVERNMENT ACT 1993*

**DEBT MANAGEMENT AND HARDSHIP GUIDELINES**

NOVEMBER 2018

**ACCESS TO SERVICES**

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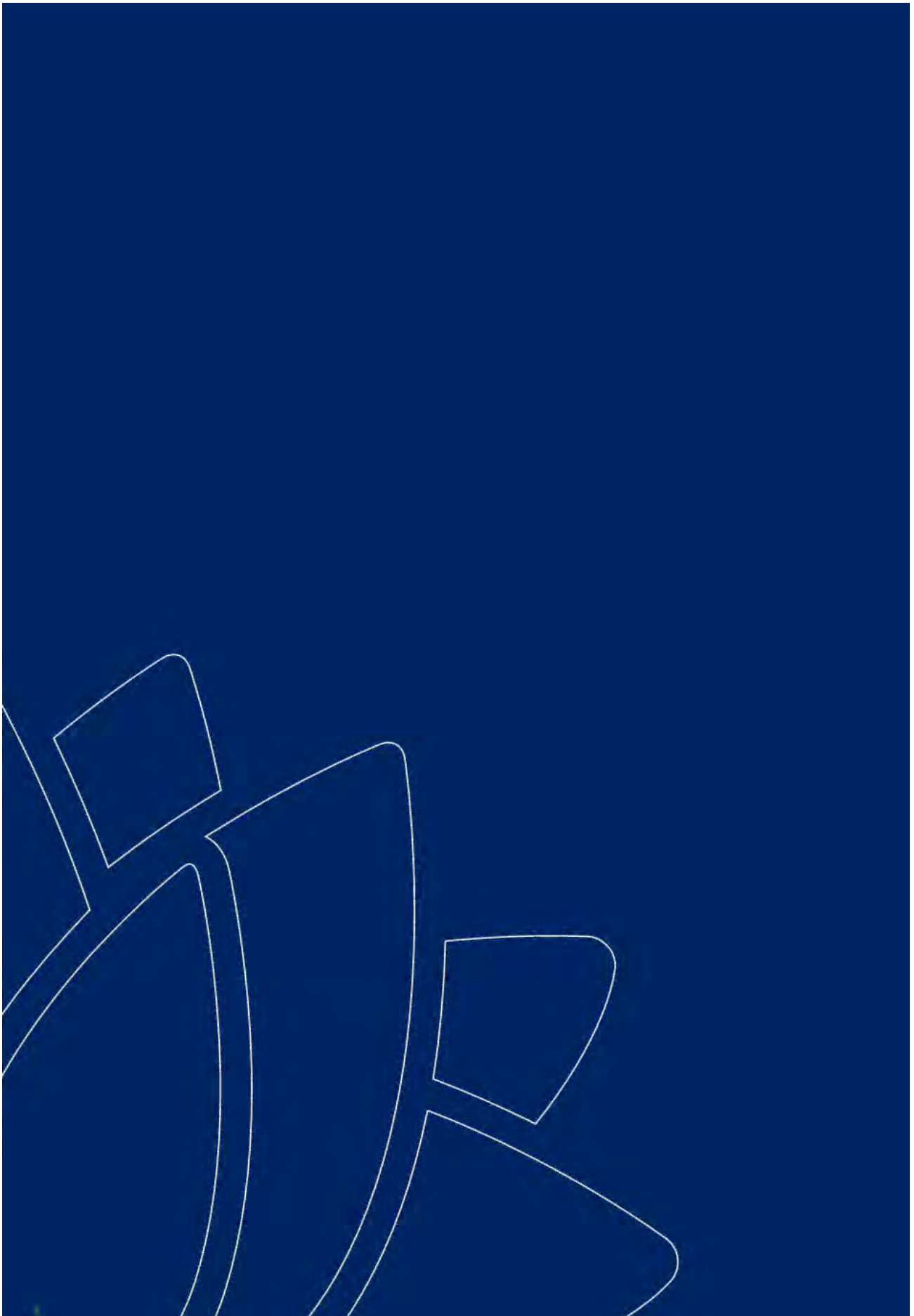
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# Foreword

Council rates and charges fund a vast array of services, infrastructure and facilities that local communities rely on. It is therefore vital that councils have good policies and processes in place to ensure rates and charges are collected promptly, fairly and efficiently, while minimising the risk of debt from overdue payments.

Local communities expect governments, including councils, to have modern payment processes in place that best suit current day needs, including electronic payments of rates and charges and options to smooth out payments across the year for more substantial bills.

It is important for councils to recover debt from unpaid rates and charges fairly and equitably. Councils are encouraged to give special consideration for people facing hardship to limit unnecessary fees, interest and legal costs that can cause additional financial stress in difficult times.

To support NSW councils to develop and apply modern, fair and effective debt recovery and hardship policies and practices in line with the requirements of the *Local Government Act 1993*, the NSW Office of Local Government, in conjunction with the NSW Department of Justice, has published these section 23A Debt Management and Hardship Guidelines.

The Guidelines set out information that councils must take into account when developing and implementing debt management and hardship policies, as well as best practice examples of easy-to-follow communication, hardship assessment, early mediation and dispute resolution.

They should be implemented alongside appropriate financial management practices to enable councils to maintain financial sustainability and achieve financial performance benchmarks.

**Tim Hurst**

Chief Executive  
Office of Local Government



**Part 1:**  
**Debt Management  
and Hardship for  
Local Government**

## 1.1 Introduction

NSW councils collect rates and charges each year in line with the *Local Government Act 1993*. Councils receiving funds on time are in a better position to be financially sustainable and continue to deliver the services and facilities local communities need and expect.

Each council should adopt robust, fair and transparent policies and procedures outlining how they will communicate with ratepayers, collect monies owing, assess hardship claims and, where necessary, recover overdue payments to manage debt.

Good debt management by councils generally flows from having good rates and charges collection processes in place.

The Office of Local Government has worked with the NSW Department of Justice to prepare these *Debt Management and Hardship Guidelines*.

The Guidelines support councils to review and update existing debt management policies and practices to collect rates and waste charges, water and sewerage charges, and align them to best practice across the sector. They provide guidance on proactive measures councils can take to ensure prompt payment and minimise default, as well as how to follow up ratepayers and recover any debts incurred fairly and effectively.

When recovering debt, and at other times, councils must consider whether a ratepayer is facing hardship and the best way to support a person in hardship to pay their bills. Guidance on developing relevant hardship policies and procedures is also included.

*Councils must take these section 23A Guidelines into account when exercising debt management and hardship functions or making relevant decisions. Debt Management and Hardship policies may be prepared separately or as a comprehensive article but must be integrated in their application.*

Some helpful definitions for key terms in these Guidelines are set out at **Appendix A**.

## 1.2 Status and scope of Guidelines

The Guidelines are issued under section 23A of the *Local Government Act*. Councils must therefore take the Guidelines into account when implementing local debt management and hardship policies and/or procedures. They apply to all NSW councils, whether or not debt recovery functions are outsourced.

While the Guidelines have been developed with particular reference to collecting debts from individual ratepayers, much of the information will also be relevant to the collection of other debts, such as from businesses or other organisations.

Councils must always seek and be guided by their own independent legal advice on these matters.



The Guidelines have drawn on best practice material in a number of NSW council policies and the *Debt collection guideline: for collectors and creditors (Commonwealth, 2015)* and the *Debt Recovery Guidelines - Responsible collection of State debts: Guidelines for Revenue NSW to collect State debt* (Revenue NSW). Valuable and timely feedback from the Revenue Professionals and a number of its member council practitioners is also acknowledged.

### 1.3 Objectives

The Guidelines assist councils to develop policies and procedures that provide for:

- efficient and effective collection of council rates, charges and outstanding debt
- contemporary and flexible options to collect money from ratepayers
- fair and equitable treatment of ratepayers, including those facing hardship
- how to identify and work with ratepayers in hardship when collecting money
- reduced use of expensive court processes to recover debts
- improved financial sustainability of councils, including performance in managing outstanding rates and charges, and
- compliance with legislative requirements, including the *Local Government Act* and privacy laws.

### 1.4 Legal framework

The *Local Government Act* provides the legal framework for how councils set and levy rates and charges each year and recover debt from overdue rates and charges, including for waiving or reducing rates in cases of hardship. A best practice debt recovery summary flowchart is set out at **Appendix B**.

Rates and charges are set in a council's Revenue Policy as part of their Integrated Planning and Reporting requirements. Rates and charges are made by 1 August each year. Notices state rates owing, any arrears and interest, any postponed rates, amount due and date to pay. Notices also advise that interest accrues after the due date, at a daily rate set by council up to a cap set yearly under the *Local Government Act*.

Councils are permitted to agree to periodic payments of rates and charges, write off accrued interest and postpone rates payments. In extreme cases, councils may also sell land to recover unpaid rates and charges. Councils may also provide discount incentives for prompt payment in full, if desired.

Hardship provisions are stipulated to encourage councils to have fair and equitable policies in place to assess hardship claims, particularly for pensioners, and procedures that make it as easy as possible for ratepayers in hardship to pay.



*The NSW Government encourages councils to incorporate modern and flexible periodic and electronic payment systems and other incentives to make it as easy as possible for ratepayers to pay promptly and to minimise the risk of debt.*

Relevant legislative excerpts from the *Local Government Act* and a list of other relevant laws are at **Appendix C**.

## 1.5 Principles

The advice and options in this Guideline are based on best practice from across the local government sector, with reference to a set of guiding principles.

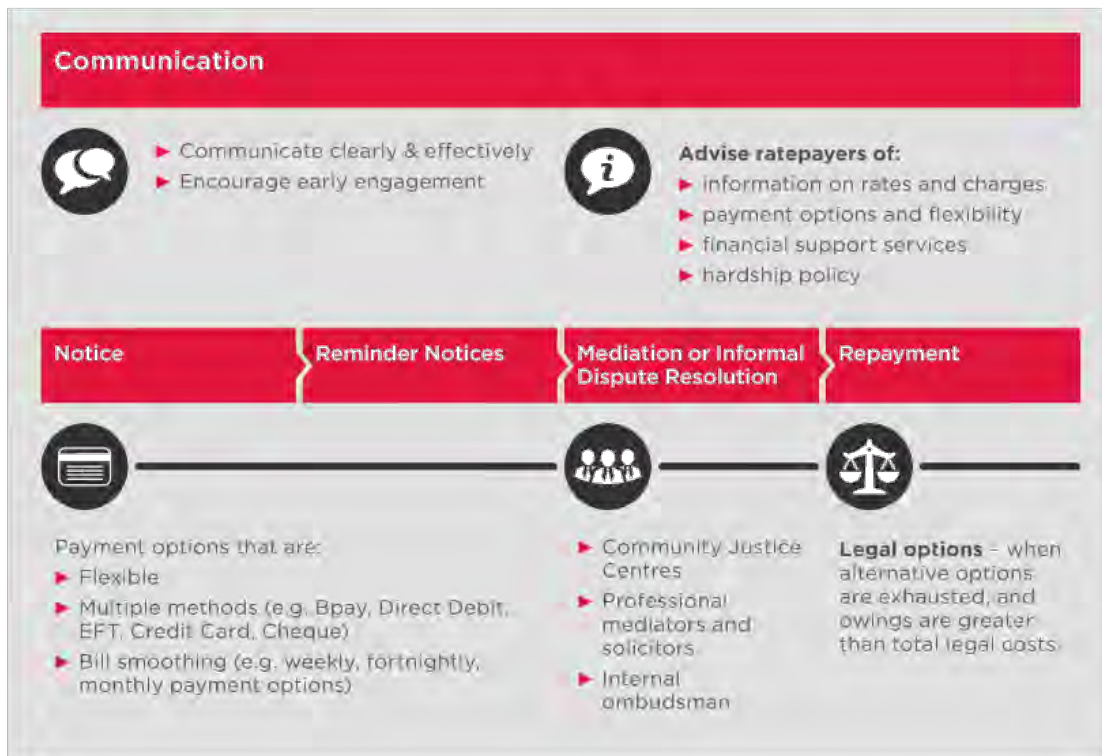
Councils should consider the following guiding principles in establishing or reviewing their own policies and practices to support effective debt management:

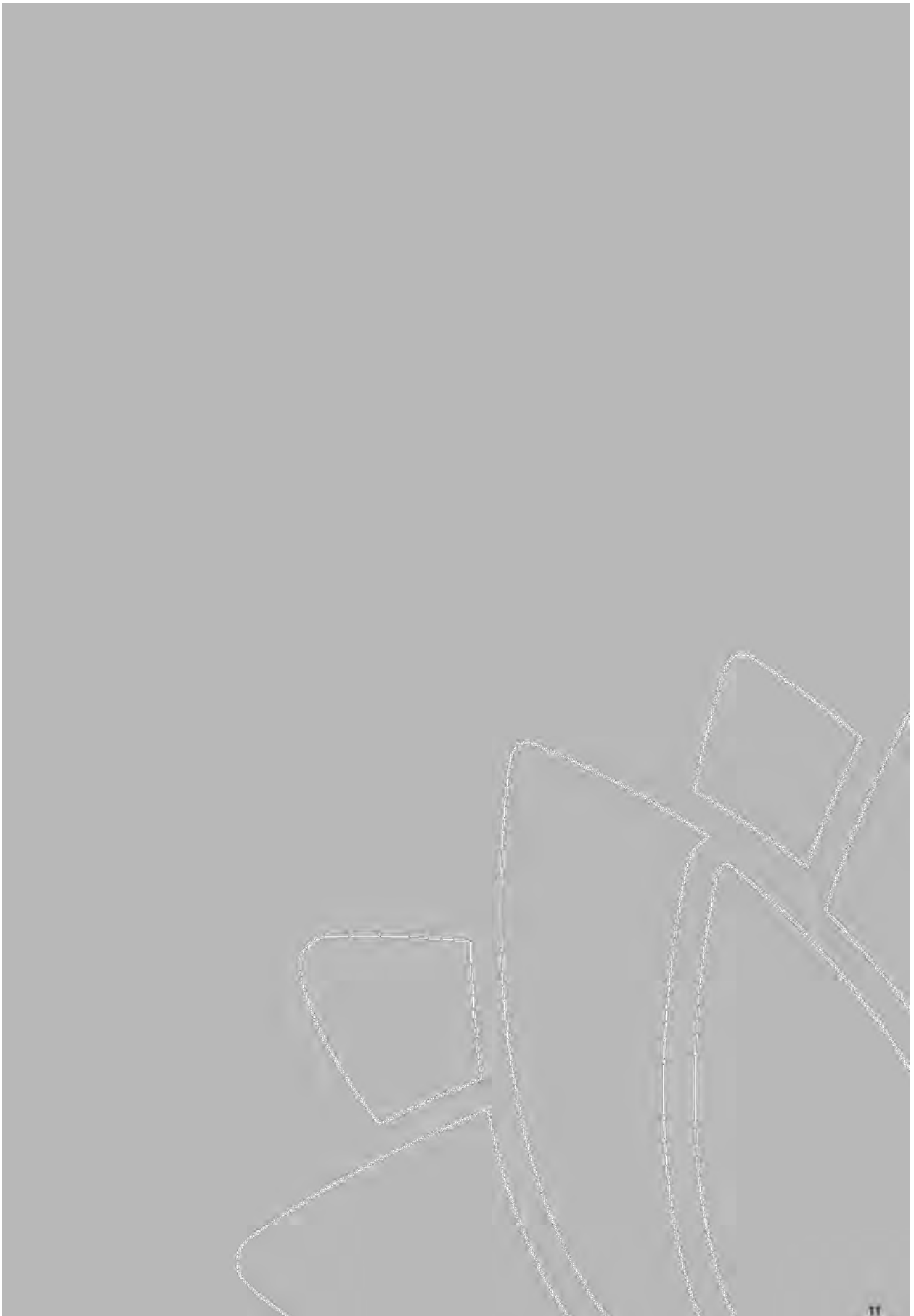
- **clear and accessible communication** – easy-to-understand information about rates and charges, how to pay, hardship, who to contact and the council's approach to overdue rates and dealing with hardship claims
- **local flexibility** – providing payment options and processes that meet local needs and the special circumstances of those facing hardship

- **fair, equitable and respectful treatment** – of all ratepayers, including respectful communication with those facing hardship
- **a 'stop the clock' approach** – to suspend debt recovery, legal action and interest accrual while a ratepayer's hardship application is awaiting determination, or while they are complying with an approved payment arrangement
- **informal action first** – timely action to prompt payments and communicate relevant information when following-up overdue amounts prior to taking formal action
- **minimise costs** – try to achieve payment without increasing ratepayer debts
- **maintain confidentiality and privacy** – information provided by applicants is treated confidentially and only used for appropriate purposes, such as to assess a hardship application
- **regular review of policies and procedures** – to identify good practice and areas for improvement, and
- **consistent debt management and hardship approaches and policies.**

## 1.6 Good practice summary flowchart

Figure 1 below summarises the good practice approaches to debt recovery and hardship taken by a number of NSW councils. These are further expanded on and explained in the following sections of the Guidelines.





**Part 2:**

**Ensuring prompt payment**



When ratepayers act and pay promptly, and when councils are fair and realistic, the need for debt management is reduced. Below are some practical ways that councils can assist ratepayers to act promptly to meet their financial commitments.

---

## 2.1 Information for ratepayers

Most ratepayers act responsibly if they are given enough information about the rates and charges they owe, as well as reasonable opportunity and flexibility to pay in an easy and timely way that takes their needs into account.

Councils should support this approach by ensuring that their policies and procedures:

- allow for alternative payment options including flexible payment arrangements before rates are due – for example, periodic payments (i.e. weekly, fortnightly, monthly or quarterly), and electronic payment options
- authorise council staff to make suitable payment arrangements with ratepayers that have not paid on time, such as a Time to Pay agreement
- include helpful information on rates notices to encourage ratepayers to contact council early if they may have difficulty paying, and
- encourage staff to refer ratepayers making enquiries to financial counsellors and other low cost support services.

Councils can take proactive steps to reduce overdue payments and support ratepayers experiencing hardship such as:

- promoting debt recovery and hardship policies
- developing clear, simple information, such as ‘fact sheets’ about rates and charges and options available to make sure they are paid on time

- translating material into other languages commonly used in their local area or including a list of local language services
- promoting flexible payment options in other communication materials, and
- improving access to policies, e.g. having key search terms to find them online (i.e. “debt recovery”, “local government”, “rates”, “hardship”).

Councils may also consider offering a discount on rates for ratepayers that promptly pay their rates in full under section 563 of the *Local Government Act*.

---

## 2.2 Rates and charges notices

Councils recover rates and charges owed by issuing a notice under section 546 of the *Local Government Act*. Information that must be included on rates and charges notices is listed in clause 127 of the *Local Government (General) Regulation 2005*.

Some ratepayers have difficulty navigating and understanding the complex and detailed information in rates notices. To support understanding and timely payments, councils should include in their policies and procedures how they will ensure notices have accurate, easy to understand and accessible information.

For example, while formatting is not prescribed, councils should design rates notices to be accessible and easy to understand. Councils with diverse communities should consider translating key information on rates notices into relevant languages.



Some important information to highlight prominently on, or with, notices includes:

- name of rateable person – every effort should be made to identify this
- the rate or charge amount due
- any outstanding rate or charge overdue and any interest charges
- when each payment is due
- payment options
- how to contact the council with any questions about the notice
- where to go for further information, such as a link to the council website, on:
  - a council's financial hardship policy
  - any English as a Second Language (ESL) services, and
  - local financial counselling services.

**Good Practice Case Study**

*A number of councils are sending out a flyer with their rates notices to provide advice to ratepayers about what to do if they cannot pay on time.*

**Electronic billing and payments**

Electronic billing and payments help to make sure that bills are received and payments are made on time, including for ratepayers living or travelling outside the local government area, and allow ratepayers to schedule payments and avoid going in person to a council during regular work hours.

*NSW council policies should enable ratepayers the opportunity to make payments electronically and enable ratepayers to enter into an agreement to receive their rates notices electronically (via email).*

**Periodic payments and payment smoothing**

Most people need to budget in advance for significant annual expenses, such as rates, waste, water and sewerage charges, as well as other utilities and insurances.

Councils should provide flexible options to enable periodic payment as do most modern businesses and governments. This may include 'payment smoothing' to reduce the impact of large bills by spreading payments evenly out across the year.

Allowing ratepayers to make small, consistent payments helps councils obtain rates and charges on time and helps ratepayers manage their budget more easily. Councils should consider combining this with a direct debit option, potentially with a discount incentive, to create seamless, automatic payments.

**2.3 Modern and flexible payment options**

Ongoing advances in technology are making it easier than ever for councils to create easy payment options for ratepayers. Communities expect councils to provide modern and flexible options that support easy payment and take into account different needs and circumstances.



*Council should enable periodic payment options, including payment smoothing, to help ratepayers pay on time. This may be as frequently as monthly, fortnightly or weekly to balance convenience to ratepayers with what is practical for councils.*

Section 564 of the *Local Government Act* enables councils to enter into agreements with ratepayers that allow periodic payments to be made, at the council's discretion.

Councils should consider preparing a template agreement to make it easier to provide this option to all ratepayers.

### **Centrepay**

Centrepay is a voluntary way for people to pay bills directly from their Centrelink payments through regular automatic deductions.

Councils should consider using and promoting Centrepay to ratepayers as an easy way to pay rates and charges through regular deductions from Centrelink payments. There is no cost to the ratepayer and councils pay a small transaction fee based on an agreement negotiated with the Commonwealth Department of Human Services.

Benefits to councils include reduced administrative costs, a secure option that helps ratepayers on lower fixed incomes to automatically pay bills on time, and a reduced risk of overdue rates and charges and recovery costs. Further information is at: [www.humanservices.gov.au/individuals/services/centrelink/centrepay](http://www.humanservices.gov.au/individuals/services/centrelink/centrepay)

## **2.4 Contacting ratepayers, currency of contact details and privacy laws**

Councils should include information in their policies and procedures about their approach to proactively contacting ratepayers to collect rates and charges and recover debt beyond the legal requirements to serve rates and charges notices under section 127 of the *Local Government (General) Regulation* (see **Appendix C**).

Policies and procedures should include information about:

- **reasonable and appropriate contact** – for the council to contact a ratepayer about rates and charges payments and any outstanding debt
- **ensuring contact details are current** – for what a council will do in this case, for example, if a rates notice is returned to the council
- **reasonable and appropriate follow-up** – to again contact a ratepayer
- **conduct towards a ratepayer** – in line with the law and the council's Code of Conduct and including respect and courtesy as well as protection from misleading, humiliating, intimidating, demeaning or abusive conduct
- **how information will be used and confidentiality and privacy will be maintained**, and
- **strategies for dealing with inappropriate behaviour from ratepayers** – potentially including training, escalation of matters to be handled by senior staff and ceasing contact in extreme situations.

*Councils, or their debt recovery agent if this function is outsourced, should proactively update contact details and contact ratepayers about rates and charges owed, and outstanding debts while maintaining confidentiality and meeting privacy protection laws.*

*Councils should consider reviewing their Privacy Management Plans and Privacy Notification/Consent Forms to ensure they have resident and ratepayer permission to share personal information between internal business units of the council for general administrative purposes, including the collection of rates and charges.*

*Taking a proactive contact approach will help resolve payment issues and outstanding debt quickly and cheaply with little adverse impact on finances and ratepayers.*

**Appendix D** to this Guideline provides further detail about best practice on contacting people to recover debt based on other relevant debt recovery guidelines.

## **2.5 Payments by pensioners**

Under the *Local Government Act* eligible pensioners are currently entitled to a \$250 discount on their annual rates and domestic waste management service charges, as well as an \$87.50 discount on each of their annual water and sewerage charges in NSW, with the subsidy cost shared between the NSW Government (55%) and councils (45%).

Councils can choose to provide and meet further pensioner discounts on these rates and charges for hardship or in certain circumstances (s575).

*The Local Government Act outlines separate requirements and flexibility for pensioners in relation to overdue rates and charges which councils must consider when adopting local debt management and hardship policies. Councils should balance the need to ensure financial sustainability with factors such as local socio-economic conditions and social justice principles.*

Strategies councils should consider for pensioners include:

- working to achieve payment through informal means
- actively promoting flexible payment options, such as time to pay (s564)
- mandatory review before commencing legal action to recover debts
- deferring rates payments
- writing off debts (s582 and 583), and
- considering individual circumstances of pensioners.

These strategies are also relevant for other ratepayers.

Further information about pensioners is under **section 3.4** and **section 4** of these Guidelines.

## 2.6 Measuring council performance

Councils should monitor and report on their financial performance to ensure they are financially sustainable. This reporting provides each council with a means to check how they are going over time and identify areas where further attention is needed.

A key indicator of council financial performance is outstanding rates and charges. For this purpose, these payments are outstanding if they have been overdue for at least 30 days.

The local government performance indicator for outstanding rates and charges is presented as a ratio. This ratio reflects the impact of uncollected rates and charges on liquidity and the efficiency of council's debt recovery practices by comparing outstanding amounts to the total amount of rates and charges levied by each council.

The Office of Local Government has set councils a performance benchmark of:

- less than 5% for councils in city and coastal areas, and
- less than 10% for other regional and rural areas.

In 2016-17, outstanding rates and charges for NSW councils ranged from 1.1% to 35.7%, with outstanding amounts owed ranging from \$140,000 to \$25.98 million. The figures clearly show that, while some councils are meeting their performance benchmark, others are not.

*Councils should regularly check the total value of outstanding rates and charges as well as their performance against the State-wide performance indicator.*



**Part 3:**

**Recovering debts fairly  
and effectively**



Councils and communities rely on rates and charges to fund vital local services and facilities. Councils need effective debt recovery policies in place to recover rates and charges in a timely way to ensure they remain financially sustainable and able to continue to deliver quality services.

However, from time to time some ratepayers will face difficulties, such as loss of employment or illness, and councils need to take a fair and flexible approach to managing their debts.

To balance these considerations, councils should have policies that first seek to recover outstanding payments using a fair and effective process that promptly determines how each debt will be paid outside a formal court process. This minimises overall costs to the individual ratepayer, who may already be facing difficulties, and cost to the community.

### **Council Activity in the NSW Local Courts**

*In 2013 NSW councils filed 34,098 actions in the Local Court. Of these claims, around 95% were for unpaid rates and charges. The average claim was \$1,600 and over 80% were for less than \$2,000. Almost 70% of these matters settled, were paid or written off by councils prior to judgement.*

*In around 27% of these matters the ratepayer did not file a notice of defence in the court action. This means that these ratepayers were either not aware of the proceedings, did not understand the court process, were not willing to make a response to the claims, or were unable to seek representation.*

### 3.1 Debt management options

Each council should determine how best to resource their debt collection and recovery role based on local circumstances and need.

*While some councils undertake this role in-house, others engage professional businesses or debt recovery agents.*

*Agents acting on behalf of councils do so under express or implied authority. The council is ultimately liable for the agent's actions in recovering debt and the debt management process, as for any in-house debt recovery process.*

- **conflicts of interest** – this should require any conflicts to be identified, declared and managed, including circumstances where the same business is performing other work for the council and/or is representing council in any subsequent legal action
- **personal conduct** – this should require agents to approach ratepayers with respect, courtesy and discretion
- **pensioners and others facing hardship** – this should set out special requirements for how these ratepayers are to be assessed and managed to meet council's legal obligations and policies
- **use of alternative resolution options** – this should set out the council's requirements around attempting to resolve matters informally before filing in court and/or to follow certain dispute resolution guidelines or procedures, and
- **confidentiality and privacy** – this should set out how personal information must be managed, including limiting provision and use of information.

### 3.2 Reminder notices and payment arrangements

Even councils that proactively use best practice to support ratepayers to pay rates and charges on time will have some outstanding payments to manage each year.

Councils are required to issue an annual rates and charges notice and reminders of each quarterly instalment one month prior to the relevant due date.

If a rates instalment is overdue, councils should issue ratepayers with a reminder notice, advising that full payment is required by a stipulated due date, unless a payment agreement has been made or a deferred payment has been approved.

Where councils choose to outsource debt collection and recovery, they should have appropriate contracts and operations in place that take into account **sections 2.4** and **3.2** of these Guidelines and the following principles:

- **contacting ratepayers** – this should require clear, fair and efficient processes to identify, locate and contact ratepayers to recover debt
- **provision of information and documents** – this should facilitate prompt and efficient processes for agents relaying requests to the council, and for councils to respond to those requests, and for collection activity to be suspended at times when it is arranged for the council to respond directly about account information or documents



Where contact details are out of date or rates notices are returned to the council, there is little advantage in issuing multiple reminder notices. In this case, councils should make attempts to obtain current ratepayer contact details. See **Appendix D** for information about how some councils achieve this.

### ***Payment arrangements and repayment negotiations***

Generally, if a ratepayer fails to meet two payment arrangements, councils issue a reminder notice advising that full payment is required within the date specified, after which debt recovery action will commence.

Councils are encouraged to work with ratepayers by taking a flexible and realistic approach, such as by:

- making reasonable allowances for ongoing living expenses
- considering if the ratepayer is on a fixed low income (for example a disability pension or other welfare payments) and prospects of future income, and
- any other debts owing to different creditors.

Under no circumstances should councils provide ratepayers with financial advice. Any repayment arrangement reached should be fully and accurately documented and a copy provided to the ratepayer.

Where this prompts a ratepayer to reveal financial or other difficulties preventing payment, councils should follow special policies and procedures to assess and deal with hardship, as discussed in **Section 4**.

Council policies and procedures should include information about how best to deal with non-payment.

*Councils should consider checking currency of contact details at the reminder notice stage, if they appear out of date, and how best to bring the notice to the ratepayer's attention (see also **section 2.4 and Appendix D**).*

*Some councils offer prominent 'Change of Name' and 'Change of Address' services online for ratepayers and regularly undertake electronic ratepayer contact detail updates.*

Councils should develop a template reminder notice for overdue payments including:

- amount owing and date on which payment was due
- any interest charges that apply, or will apply, under the Act
- advice that the ratepayer should contact council immediately to discuss an alternative payment arrangement if unable to pay in full
- contact details to discuss the debt
- advice that the council officer will be respectful, courteous and discreet when working with the ratepayer to resolve the matter
- notification that, if payment is not made, council will first seek resolution through internal dispute resolution but may need to resort to legal proceedings
- notification that all legal costs and expenses incurred in recovering rates will be charged against the property under the Act
- advice where to find further information about local support services, including free legal advice or financial counselling
- confirmation that council may agree to a payment arrangement before or after legal action has commenced but may continue legal action if the ratepayer does not comply with their arrangement with council, and
- notification, if relevant, that the ratepayer will be listed on the Credit Reference listing by credit bodies if payment is not made by a certain date.

If a ratepayer does not pay by the date on the reminder notice, council should consider issuing a final notice or letter of demand before taking legal action. Council should again try to find current contact details prior to sending the notice.

The final notice should repeat the reminder notice information, refer to the previous reminder notice and confirm that council will take further action without notice unless payment is made or the ratepayer negotiates an alternative arrangement with council.

### 3.3 Counselling, mediation and informal dispute resolution (IDR)

Local court data shows that councils file many claims for small debts at a much greater rate than State and Commonwealth governments, electricity and water providers combined. This results in unnecessary time, cost, use of court resources and stress on ratepayers. It can also indicate poor debt management practices.

*Council should let ratepayers know about legal and financial counselling options, as well as any mediation or dispute resolution processes in place to help resolve issues.*

Importantly, if a ratepayer is actively participating in a dispute resolution process, has made an application for financial hardship that has not yet been determined, or is complying with a payment arrangement made with a council in good faith, any action to sell the debt, retrieve the debt or start legal proceedings should be suspended (and then only be commenced if liability is confirmed).

Any business or agent acting on the council's behalf must also be aware of the council's policy in relation to mediation and dispute resolution. Further detail about different levels of mediation and dispute resolution is below.

### ***Referring ratepayers to legal and financial advice***

Councils can outline options for ratepayers to access support services to help resolve legal or financial issues and/or negotiate arrangements to manage debt. This will be mutually beneficial as it may result in an early agreement about payment arrangements.

Community legal centres and financial counsellors assist people resolve debt issues by providing free, tailored expert advice. Solicitors from these centres or Legal Aid can provide legal advice and assistance to ratepayers.

Financial counsellors provide a mix of social, financial and paralegal advice and advocacy on debt issues. Assistance can include:

- assessing whether or not the debt is legally owed
- advice around protected income and assets (in broad terms, where a ratepayer's sole income is social security and they have only basic household assets, a creditor may be unable to enforce a debt against them), and
- advice about budgets, options for reducing expenses and possible debt repayment strategies, and
- negotiating with other creditors to free up income that can assist people to pay rates and other essential charges.

#### ***Support services councils should refer ratepayers to***

*[www.moneySMART.gov.au/managing-your-money/managing-debts](http://www.moneySMART.gov.au/managing-your-money/managing-debts)  
Financial Advice, including financial counsellor search function*

*[www.legalaid.nsw.gov.au/get-legal-help/find-a-service](http://www.legalaid.nsw.gov.au/get-legal-help/find-a-service)  
Legal Aid service (Legal Advisers)*

*Community Legal Centres in different local government areas:  
[www.clcnsw.org.au/find\\_legal\\_help](http://www.clcnsw.org.au/find_legal_help)*



### ***Mediation, negotiation and informal dispute resolution (IDR)***

Mediation or informal dispute resolution is a quick, cheap, flexible and confidential process. It can help preserve business or personal relationships.

Mediation or informal dispute resolution is a key option to support councils to reach a payment arrangement with a ratepayer and many councils report high success rates using this. This should occur before any legal action is commenced. It may also occur during resolution of a legal claim or after a court has made a judgement.

*Council policies should include Informal Dispute Resolution options. Timely mediation to resolve debt informally, prior to filing in court, benefits both councils and the ratepayers. It is effective and efficient best practice.*

Options for mediation and informal dispute resolution differ across NSW and include:

- **Community Justice Centres** - these centres provide free, community mediation services and can assist with many disputes, including debts
- **Professional mediators and solicitors** - a list of people able to assist at cost is available through the Law Society of NSW and District Court of NSW - this is usually only appropriate for larger outstanding debts, and
- **Internal Ombudsmen.**

### **3.4 Specific considerations for pensioners**

Where a ratepayer that owes council a debt for rates and charges is a pensioner, additional options for support and flexibility may exist.

Councils should bring these options to the attention of ratepayers as soon as possible to minimise further costs accruing to those ratepayers and should set out in their policies and procedures how pensioner matters will be handled and relevant factors to consider in assessing applications.

For further information about pensioners refer to **Section 4** of these Guidelines.

### **3.5 Water and sewerage charges**

Like rates and waste charges, councils levy ratepayers for water and sewerage services council provides. To the extent possible, the overall debt collection and recovery process should be consistent with the recovery of rates and charges.

Also like for rates and waste charges, pensioners are eligible for a discount on their water and sewerage charges.

While some special considerations apply to collecting these charges and responding to overdue payments, councils should also ensure they have appropriate policies and procedures in place to manage non-payment for water and sewerage charges.

#### ***Notifying ratepayers and occupiers***

Particular considerations that should be included as part of these policies will apply where council may consider restricting water supply due to non-payment.

Councils should be aware that:

- a decision to restrict water supply must be consistent with the *Local Government (General) Regulation* and allow sufficient water use to maintain personal hygiene
- if payment is not made after a reminder notice is issued, council may choose to issue a notice of Intention to Restrict Water Supply
- notices should advise what action will be taken and a time period set by council, together with other matters usually set out on a reminder notice for rates
- notices should be sent to the legal owner of the property affected at his or her last known address and a copy sent to the 'Occupier' at the property address
- if council receives no response to a Notice of Intention to Restrict, a further Water Restriction Notice should be served on the occupier, and, the property owner at their last known address. This further notice should state when service will be restricted, at least 7 days from the date of the notice
- arrangements for payment should not be entered into directly with tenants
- if payment is not received and a restrictor is installed, a notice should be given to the occupier advising that water supply has been restricted or, if that is not possible, left at the property address, and
- the final notice should state that water supply will not be restored until payment is made, including a reconnection fee.

- rates and charges in certain circumstances – clause 131 *Local Government (General) Regulation*
- accrued interest – s.567 *Local Government Act*
- pensioners' rates and charges – s.582 and 583 *Local Government Act*, and
- sundry fees and charges – s.610E, *Local Government Act* (after public notice).

Further information about the procedures for these actions is set out in the [Council Revenue and Rating Manual](#).

Bad debts may be written off by a General Manager with delegated authority. For example, an elected council may resolve that the General Manager can write off debts below a certain amount or in specific circumstances without council resolution in accordance with the *Local Government Act*, such as in cases where it is believed that an attempt to recover the amount would not be cost effective.

### 3.7 External Dispute Resolution options

Businesses in many industries belong to an external dispute resolution (EDR) scheme. Specialist collection and debt purchasing agencies may also decide to join a scheme. At times, these schemes can help to resolve disputes that are unable to be resolved through the council's internal or informal dispute resolution processes.

Some councils are members of the Energy and Water Ombudsman scheme (EWON). Councils may wish to consider joining such a scheme for water charges. Further information is available at: [www.ewon.com.au/](http://www.ewon.com.au/).

The benefits of external review are that it provides an independent and transparent process to present a case, explain decisions and often resolve issues before the need for court action. It can also inform continual improvement in council policies and procedures.

### 3.6 Writing off debt

If a debt cannot be recovered, or a council chooses not to take any further action, outstanding debts should be settled, where legally allowable.

One option is to reduce or write-off an outstanding debt. This can happen before, during or after any legal action is commenced, and may include:

Council policies should specify any circumstances in which outstanding payment issues are to be elevated to more formal dispute resolution processes.

### 3.8 Legal options

While there are a number of local government court claims for unpaid rates in NSW each year, only 0.1% go to a final hearing. Almost all disputes are resolved through negotiation or other informal dispute resolution processes prior to judgement, and this is often required before a claim can be heard.

*Court claims dealing with unpaid rates and charges can waste time, resources and cause unnecessary stress to ratepayers. Excessive court claims by councils can be a sign of poor debt recovery practices.*

*Councils should take legal action in court as a last resort rather than a matter of practice. This should only occur if an informal payment arrangement with a ratepayer is not successful, a ratepayer breaches an existing payment arrangement or a ratepayer has a long history of not paying rates and charges.*

In considering whether to commence legal proceedings, councils should also consider the amount of a debt, how overdue it is and action taken to date. Special considerations may apply if the ratepayer is a pensioner, has a mental illness, is in hardship or otherwise requires assistance to defend a legal claim.

Councils should develop and apply a set of principles or criteria as part of their policies to assist in their decision about whether to proceed with legal action. This could include whether the ratepayer has:

- attempted to contact council or make instalments
- previously failed to pay their rates
- complied with any alternative arrangements to make payments
- more than one rates instalment outstanding, and
- participated willingly in mediation or other attempts to settle the debt.

#### ***Filing in court***

Only when other options are exhausted – and a council determines the next best option is to file in court – councils may use the NSW Department of Justice Online Registry to file forms including Statements of Claim and applications for default judgement. This may reduce the need to engage agents to file matters for councils. Further information is at: [onlineregistry.lawlink.nsw.gov.au/content/](http://onlineregistry.lawlink.nsw.gov.au/content/).



### NSW Government Civil Justice Strategy

*The Department of Justice is developing a new Civil Justice Strategy that places a strong emphasis on dispute resolution prior to filing in court, particularly by State agencies and councils. This strategy recognises that more than 95% of court matters settle before final judgements and that the formal justice system should be involved in civil matters such as outstanding debts only where necessary.*

### Statements of Claim

Councils can recover debts in the Local Court for up to \$100,000. A flowchart of the debt recovery process is at **Appendix B**. The Small Claims Division handles debts up to \$10,000. This provides a lower cost process with less formality, less technicality in proceedings and fewer rules of evidence. Costs that can be awarded are therefore capped to a fixed amount. Most matters are usually dealt with by court assessors rather than magistrates.

### Court orders and recovery action

The court may order that a ratepayer owes a council a debt. If not paid, the council or agent may take recovery action. This should only be authorised by a council officer with appropriate delegation. Council policies that contemplate legal action should provide guidance about how to choose an appropriate course of action such as an examination summons or garnishee order. Councils should only ever choose options that are commensurate with the nature of the debt owed.

### Sale of land for unpaid rates

Under Chapter 17, Division 6 of the *Local Government Act*, councils are able to sell land to recover rates and charges in certain circumstances where the debts have been outstanding for more than five years. Councils should only resort to this option as a last resort, particularly where a ratepayer lives on the property and the debt owing is a small amount. Councils should be guided by sound policies and procedures if taking this action.

If a property is sold and the amount received by council is less than the outstanding rates and charges, the council should consider the debt paid in full as per Section 719 of the *Local Government Act*.

If the amount received is more than the amount outstanding, the council will hold the money for persons having estates or interests in the land immediately before the sale according to their respective estates and interests.

Section 720 of the *Local Government Act* provides for councils to pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it. Receipt by the person of any payment made under this section is an effectual discharge of the council's liability.

**Part 4:**

**Ensuring hardship is fairly  
and effectively assessed**



*Councils should act proactively, fairly, realistically and flexibly when they think a ratepayer may be experiencing hardship. They should also take into account the individual circumstances causing hardship. This will better ensure that the ratepayer is supported to meet their financial commitments.*

*Councils should ensure hardship information is easily accessible and understandable to ratepayers.*

*Councils should ensure that their hardship and debt management policies and procedures are integrated well, even if they are written as separate policies.*

Many of the principles, policies and processes that apply to debt management, as outlined in the earlier sections of these Guidelines, also apply to hardship. Below is additional information that councils should take into account when preparing and implementing hardship policies and procedures.

## 4.1 Understanding hardship

Hardship is difficulty in paying debts when repayment is due. Any person who cannot pay their rates or charges due to hardship can apply to council for assistance at any time. Ratepayers should be encouraged to seek assistance from the council as soon as practical. The council should then consider each case on its merits.

Short term hardship can arise from a temporary change in circumstances:

- Loss or change in income
- Illness
- Loss arising from an accident
- Natural disaster or emergency situation
- Death in the family
- Separation, divorce or other family crisis
- Family violence, and/or
- Some other temporary financial difficulty due to loss of income or increase in essential expenditure.

Long term hardship can arise from any of the reasons listed above, or it can relate to the problem of managing living costs with a low or fixed income such as a pension or superannuation payment.

## 4.2 Clear and upfront communication with ratepayers about hardship

As for debt management generally, councils should adopt and widely communicate local hardship policies and procedures in an easy to understand and accessible format. This should include having fact sheets, forms and other information on the council's website.

Where possible, councils should include information about language services to support the hardship claim process.

Councils should additionally define and clearly communicate financial support contacts, or information about where contacts can be found, as part of their debt management and hardship communication strategies. Key contacts could include:

- Financial Counsellors Association
- Financial Rights Legal Centre
- Mortgage Hardship Service
- National Debt Helpline, and/or
- any other relevant services in the local area.

Councils should clearly communicate key sections of their debt management and hardship policy to ratepayers, including alternative payment options available to ratepayers (**section 2.3**), privacy provisions for ratepayers engaging with council (**section 2.4**), and arrangements for pensioners (**section 2.5** of this Guideline).

## 4.3 Assessing applications for hardship assistance

Councils should have information in their policies and procedures about how they will consistently assess hardship applications.

Resources, such as hardship factsheets and application forms, should be easily accessible on the council website to allow ratepayers to make an application. Information should include a contact point in the council for any queries a ratepayer has. Applications should be able to be submitted by the ratepayer or by another person on their behalf.

### *How applications may be assessed*

As each local community is different, councils should develop a methodology for assessing hardship based on local circumstances. Applications may be assessed by the council or a delegate (e.g. a Hardship Committee or council employee). Factors to be considered may include, but are not limited to, whether the ratepayer:

- has provided appropriate evidence of financial and/or other hardship
- receives Centrelink benefits
- receives other benefits (e.g. emergency relief funding)
- whether the applicant could be considered in acute financial hardship, for example, if an individual earns below 75% of the minimum weekly wage
- is experiencing domestic or family violence involving financial abuse
- has been referred by an accredited financial counsellor, welfare agency or legal assistance service, or
- has a payment history that indicates they have difficulty in meeting payments in the past.
- has appropriately completed a hardship application form (if required).



Councils may wish to consider best practice hardship processes of peer councils and/or talk to Legal Aid NSW or local financial support agencies when developing their hardship assessment processes.

### ***Capacity to pay***

An individual's capacity to pay should be assessed as part of this process. The payment amount and/or payment plan should take into account and reflect a ratepayer's personal circumstances including, but not limited to:

- the ratepayers total disposable income and current financial commitments
- the number of children and/or dependents of the ratepayer, and/or
- advice from an accredited financial counsellor.

### ***Financial hardship and council assistance***

There are several ways the council may help a ratepayer who is experiencing financial hardship including, but not limited to:

- a payment plan or agreement (s564 of the *Local Government Act*) so that rates and charges (whether overdue or not) are paid on a weekly, fortnightly or monthly basis
- interest may be waived or reduced for a set period of time
- a pensioner rebate (additional to the legislated rebate) may be given
- interest, rates or charges may be written off, waived, reduced, or deferred for eligible applicants (s564, s577, s601 *Local Government Act* ).

When a payment plan is being arranged, the delegated council officer should work with the applicant to ensure the plan is realistic in terms of the applicant's capacity to pay.

When a payment plan is agreed the applicant should be given written notice of:

- how long the plan will last
- the amount of each instalment payable under the plan
- the due date of each instalment
- what action the council will take if the applicant misses a payment
- who to contact if the applicant's circumstances change, and
- details of any payment deferral options (e.g. s601, *Local Government Act*).

Penalty interest charges may normally be written off or reduced if:

- if the applicant complies with their payment plan, or
- if the applicant is a 'first time' defaulter with a good payment history and there are mitigating circumstances.

### ***Hardship application decisions and appeals***

The council, or delegate deciding hardship applications, should generally make a recommendation to the General Manager about whether or not to grant hardship. The General Manager would then make a decision.

The applicant should be informed of the General Manager's decision in writing within a reasonable timeframe after making the application (say 14 days) and should be given reasons for the decision.

If not satisfied with the outcome, the applicant should be able to appeal the decision, potentially to the elected council. Any hardship request considered by the elected council should be done at a closed meeting.

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### ***Length of payment arrangements***

Any form of assistance provided under a local debt management and hardship policy may be for 6 months, 12 months, or a period agreed to between both parties. A further application for hardship consideration may be made after this period.

### ***Cancelling hardship arrangements***

A hardship arrangement may be cancelled if the ratepayer:

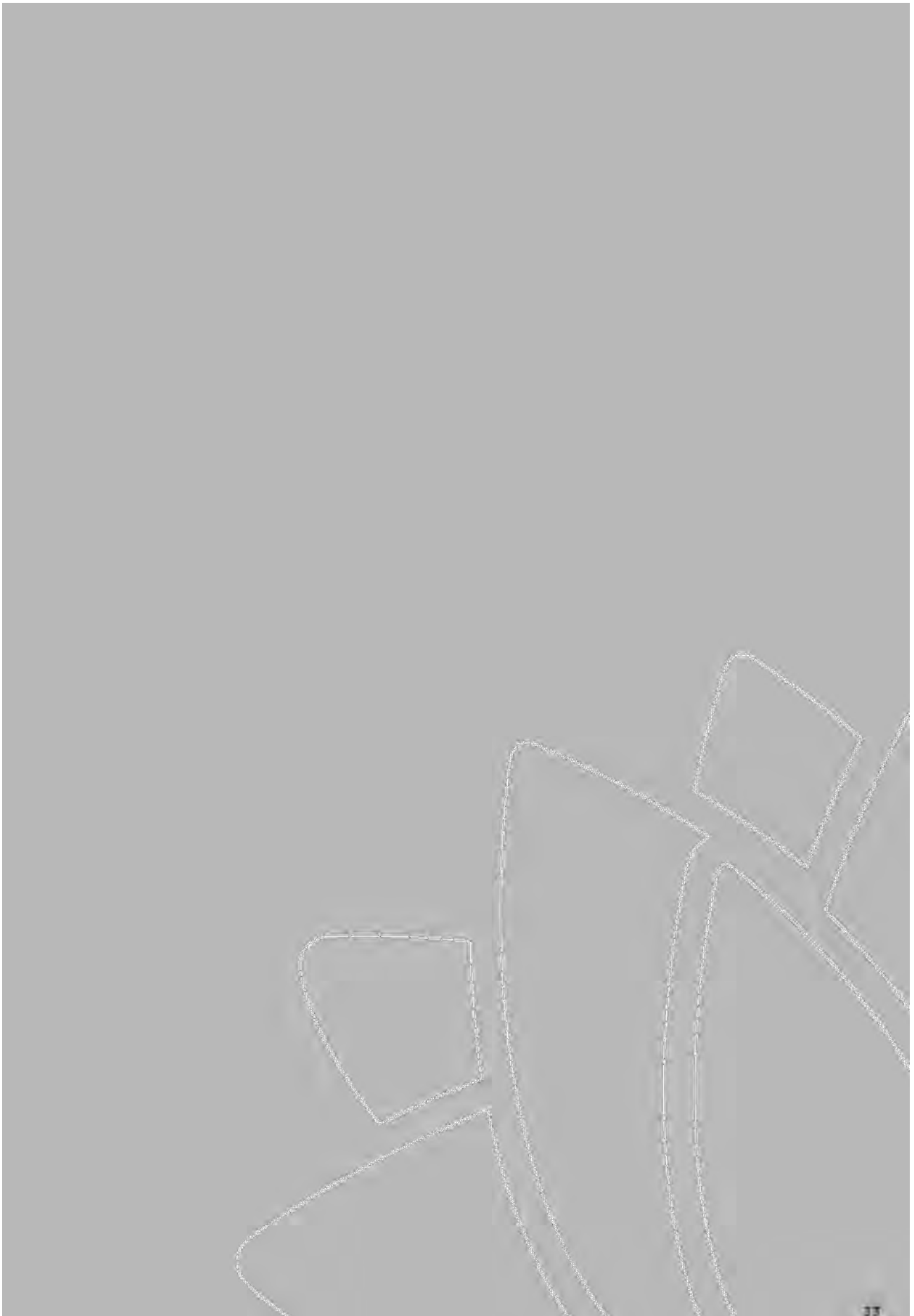
- fails to comply with their payment plan
- no longer owns the land
- advises the council that financial hardship no longer applies, or
- provides false or misleading evidence of financial hardship to council.

Where a ratepayer fails to comply with their payment plan or contact the council about failing to pay, council should send a reminder to make a payment or contact the council.

If the ratepayer does not respond within an appropriate timeframe, say ten business days, and the council determines the payment plan is unlikely to be met, the payment plan may be cancelled and this decision communicated to the ratepayer in writing. The ratepayer's debt would then become subject to the normal debt recovery processes of the council.

Relevant checklists are in **Appendices E and F**.





# Appendices



# Appendix A

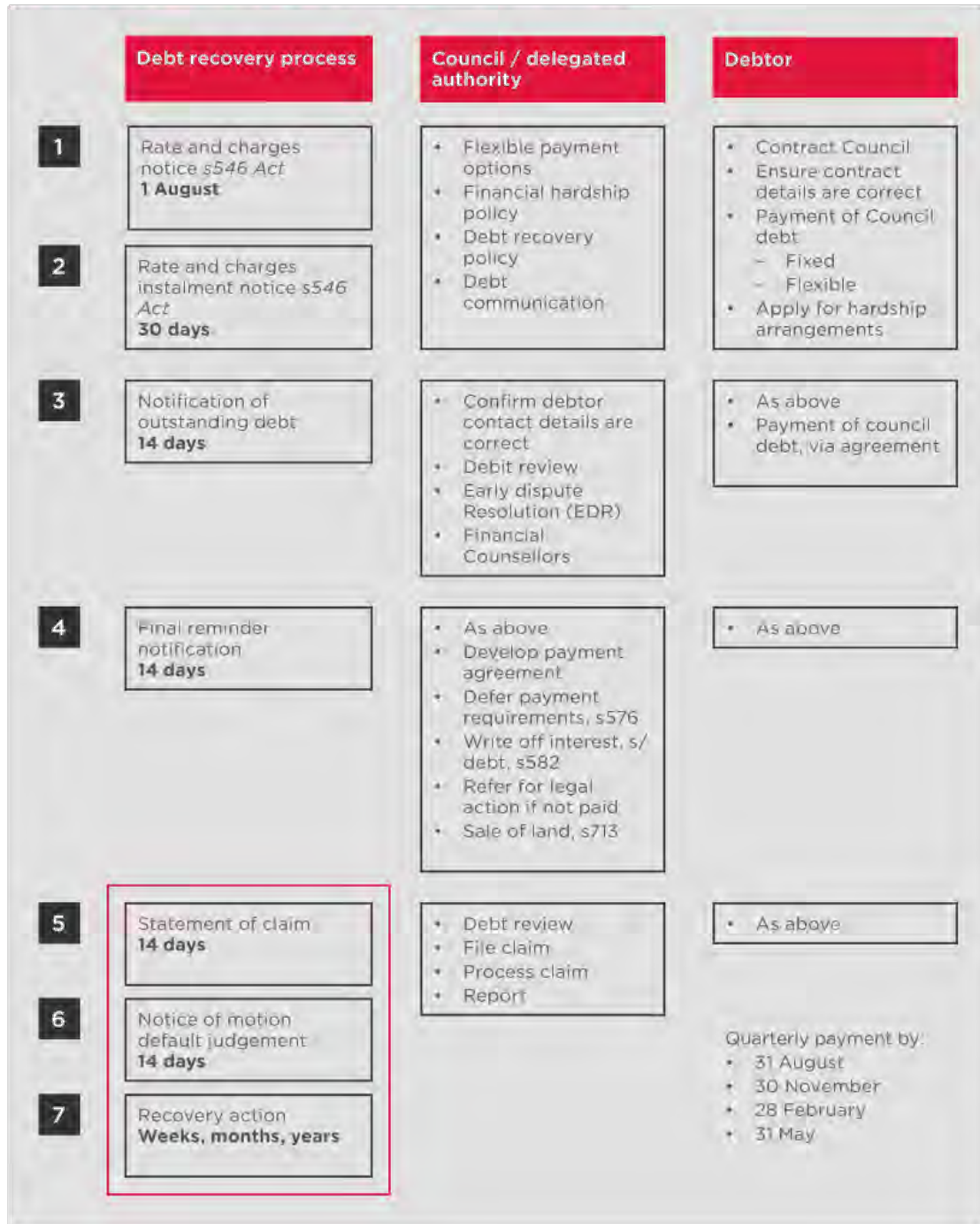
## Definitions

Term	Definition
<b>Agent</b>	A person who has the express or implied authority to undertake collection activity on behalf of a council in circumstances where a debt has not been sold or assigned
<b>Authorised representative</b>	A person such as a financial counsellor, solicitor, financial advisor, carer, trustee or guardian who has been authorised by a ratepayer to act on their behalf
<b>Capacity to pay</b>	A payment amount or plan that takes account a ratepayer's personal circumstances including, but not limited to: <ul style="list-style-type: none"> <li>a) total disposable income and current financial commitments</li> <li>b) number of children and/or other dependents of the ratepayer, or</li> <li>c) advice from an accredited financial counsellor</li> </ul>
<b>Costs</b>	Amounts incurred by a council in recovering overdue debts (e.g. Court, interest and professional costs) which can be legally recovered from the ratepayer
<b>The Council</b>	The elected representatives, or councillors, who form the governing body of a local council.
<b>Council policy</b>	Policy created and approved by the General Manager of a council and/or the elected body
<b>Credit listing</b>	The listing of an unpaid debt on a person's credit report
<b>Credit report</b>	Any record or information that: <ul style="list-style-type: none"> <li>• is being or has been prepared by a credit reporting agency</li> <li>• has any bearing on an individual's                             <ul style="list-style-type: none"> <li>- eligibility to be provided with credit</li> <li>- history in relation to credit, or</li> <li>- capacity to repay credit, or</li> </ul> </li> <li>• is used or has the capacity to be used as a factor in establishing an individual's eligibility for credit.</li> </ul>
<b>Debt collector</b>	A person collecting a debt in the course of a business, including councils, agencies collecting a debt on a council's behalf and independent collection agencies
<b>Debt Recovery Procedure</b>	A council procedure that defines the processes to implement to meet the objectives of a council's debt recovery policy
<b>Default Judgment</b>	In cases where the ratepayer does not respond to a Summons issued to them, the Court may make a default judgment whereby it will make a decision without having the matter heard in Court
<b>Financial counsellor</b>	A person who provides information, support and advocacy to assist people in financial difficulty

Term	Definition
<b>Garnishee</b>	Legal document issued by the court ordering third parties who hold funds on behalf of the defendant (eg. an employer) to pay funds to a council. Garnishees can be issued against a defendant's wages, bank accounts or other third party holding funds on behalf of the defendant.
<b>Hardship</b>	Hardship is any situation where an individual is having difficulty paying legally owed debt. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances) restricting the short-term capacity to pay
<b>Judgment debt</b>	A debt confirmed by an order or judgment of a court
<b>Notice of Demand</b>	Demand letter from a council or a council's legal recovery representative issued in accordance with the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission guidelines
<b>Penalty interest</b>	Interest raised in accordance with the <i>Local Government Act</i> and as adopted by a council in its Revenue Policy
<b>Pensioner</b>	An eligible pensioner as defined in clause 134 of the <i>Local Government (General) Regulations 2005</i>
<b>Rateable valuation</b>	Land value used for rating purposes i.e. net of allowances allowed by the <i>Valuation of Land Act 1916</i> and s.585 <i>Local Government Act</i>
<b>Reasonableness</b>	Assessed according to an objective standard, taking into account all relevant circumstances
<b>Rent for rates</b>	Section 569 of the <i>Local Government Act</i> allows a council to order tenants of properties with overdue rates to pay rent to a council in lieu of unpaid rates, under specific circumstances
<b>Sale of Land</b>	In accordance with s713 of the <i>Local Government Act</i> , a council has the authority to sell land which has any unpaid rates or charges for more than 5 years, or 1 year for vacant land, where the owing debt exceeds the land valuation
<b>Write off</b>	The accounting procedure for cancelling a debt that is no longer collectable resulting in its removal from the ratepayer's balance sheet account

# Appendix B

## Debt recovery process flowchart



Note: Red indicates action referred to the NSW Local Courts, whereby rates, charges and fees remain unpaid after a final reminder notification.



## Appendix C

### Local Government Act and regulations – excerpts

The *Local Government Act 1993* (the Act) provides the legal framework for how councils in NSW may set and levy rates and charges and recover debt from overdue rates and charges. This is supported in provisions in the *Local Government (General) Regulation 2005*. Some relevant excerpts are set out in the tables below.

Councils must take a range of other laws into account when undertaking these activities. This Guideline does not capture all other legislation, in relation to which councils should take their own advice.

#### Local Government Act 1993

##### Section 546 How is a rate or charge levied?

- (1) A rate or charge is levied on the land specified in a rates and charges notice by the service of the notice.
- (2) The notice may be served at any time after 1 July in the year for which the rate or charge is made or in a subsequent year.
- (3) A notice that is required to effect an adjustment of rates or charges may be served in the year for which the rate or charge is made or a subsequent year.
- (4) The notice may include more than one rate, more than one charge and more than one parcel of land.
- (5) It is not necessary to specify the name of the rateable person or the person liable to pay the charge in the notice if the council does not know the person's name.

##### Section 562 Payment of rates and annual charges

- (1) Annual rates and charges may be paid in a single instalment or by quarterly instalments.
- (2) If payment is made by quarterly instalments, each instalment is to be a quarter of the rates or charges, disregarding any remainder, together, in the case of the first instalment, with the remainder. However, if the amount of an instalment, other than the first instalment, is not a multiple of 10 cents, the amount of each instalment in excess of a multiple of 10 cents is to be subtracted from that instalment and added to the first instalment.
- (3) Except as provided by subsection (4):
  - (a) if payment is made in a single instalment, the instalment is payable by 31 August, and
  - (b) if payment is made by quarterly instalments, the instalments are payable by 31 August, 30 November, 28 February and 31 May.
- (4) If the rates and charges notice is not served by 1 August:
  - (a) the single instalment (if payment is made in a single instalment), or
  - (b) the first 2 instalments (if payment is made by quarterly instalments),
 is or are payable by 30 November, or by the day that is 30 days after service of the notice, whichever is the later.
- (5) On or before 31 October, 31 January and 30 April, a council must send reminder notices (to be sent separately from the rates and charges notice) to each person whose rates and charges are being paid by quarterly instalments.

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**Section 563 Discount for prompt payment in full**

A council may discount the amount of a rate or charge to such extent as it determines if the whole of the discounted amount of the rate or charge is paid by a date nominated by the council

**Section 564 Agreement as to periodical payment of rates and charges**

- (1) A council may accept payment of rates and charges due and payable by a person in accordance with an agreement made with the person.
- (2) The council may write off or reduce interest accrued on rates or charges if the person complies with the agreement.

**Section 566 Accrual of interest on overdue rates and charges**

- (1) Interest accrues on rates and charges that remain unpaid after they become due and payable.
- (2) Interest accrues on a daily basis.
- (3) The rate of interest is that set by the council but must not exceed the rate specified for the time being by the Minister by notice published in the Gazette.
- (4) Accrued interest is, for the purpose of its recovery, taken to be a rate or charge which is due and payable.
- (5) Interest continues to accrue on unpaid rates or charges even though judgment for payment of the rates or charges may have been obtained in a court. Interest is not payable on the judgment debt, despite any other Act.

**Section 567 Writing off of accrued interest**

The council may write off accrued interest on rates or charges payable by a person if, in its opinion:

- (a) the person was unable to pay the rates or charges when they became due and payable for reasons beyond the person's control, or
- (b) the person is unable to pay the accrued interest for reasons beyond the person's control, or
- (c) payment of the accrued interest would cause the person hardship.

**Section 570 Transfer of land in payment of rates or charges**

A council may accept a transfer of the land in respect of which rates or charges are or accrued interest is due and payable in full satisfaction of the rates, charges or accrued interest.

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**Section 577 Extension of concession to avoid hardship**

(1) If a council considers it proper to do so to avoid hardship, the council may, by order, direct that:

(a) a person specified in the order:

- (i) who occupies a dwelling as his or her sole or principal place of living, which dwelling is the sole or principal place of living of an eligible pensioner, and
- (ii) who is jointly liable with that eligible pensioner or with that eligible pensioner and one or more other persons in respect of the land on which that dwelling is situated, and
- (iii) in respect of whom a reduction of rates or charges would not, if that person were solely liable in respect of that land, be required to be made under this Division, or

(b) any person belonging to a class of persons specified in the order, being persons referred to in paragraph (a),

is, on and from the effective date of the order, taken, for the purposes of this Division, to be or to have been an eligible pensioner.

(2) If a council considers it proper to do so to avoid hardship, the council may, by order, direct that:

(a) an eligible pensioner specified in the order who, although not liable, or although liable jointly with one or more other persons, to do so, has, for such period as, in the opinion of the council, warrants the making of an order under this section in respect of that person, paid the whole of the rates or charges for the land on which that dwelling is situated or is, in the opinion of the council, likely to pay the whole of the rates or charges in circumstances that in the opinion of the council warrant the making of an order under this subsection, or

(b) any person belonging to a class of persons specified in the order being persons referred to in paragraph (a),

is, on and from the effective date of the order, taken, for the purposes of this Division, to be or to have been the person solely liable in respect of the land on which the dwelling is situated.

(3) An order under this section has effect according to its tenor.

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**Section 578 When does an order under sec 577 take effect?**

(1) An order under section 577 takes effect (or is taken to take effect) on such date as is specified in the order (the effective date), being a date in the year commencing on 1 July during which the order is made, whether or not that date is before or after the date on which the order is made.

(2) If a council makes an order under section 577 that is taken to take effect on a date that is before the date of the making of the order, the council may, in that order or in a subsequent order, give such directions as to refunding any rates or charges that have been paid and the charging of interest on overdue rates or charges and as to such other matters as the council thinks fit.

(3) An order under subsection (2) has effect according to its tenor.

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**Section 579 When and how is an application made for the purposes of this Division?**

- (1) An application under this Division is to be made within the time and in the manner prescribed by the regulations.
- (2) If no such regulations are in force, the application is to be made within the time and in the manner fixed by resolution of the council and, if an application is made for an order referred to in section 577, as the council may require.
- (3) If, pursuant to an application made under this Division, a reduced rate or charge applies, the council may, if the eligibility of the applicant for a reduction in a subsequent rate or charge is verified by the council as prescribed by the regulations, reduce the subsequent rate or charge without requiring a further application under this Division.

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**Section 580 Variation by regulation of amounts of reductions**

The amount by which a rate or charge is to be reduced in accordance with this Division may be varied from time to time by the regulations.

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**Section 582 Abandonment of pensioners rates and charges**

A council may waive or reduce rates, charges and interest due by any person prescribed by the regulations who is in receipt of a pension, benefit or allowance under the Social Security Act 1991 of the Commonwealth.

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**Section 583 Writing off of pensioners rates and charges**

- (1) A council is to write off amounts of rates, charges and interest which are reduced or waived under this Division.
- (2) A council may not take proceedings to recover an amount so written off unless the amount has been written off because of a wilfully false statement in an application under this Division or except as provided by section 584.

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**Section 585 Who may apply for postponement of rates?**

The rateable person for land described in any of the following paragraphs may apply to the council for a postponement of rates payable for the land in the current or following rating year (or in both years):

- (a) a parcel of land on which there is a single dwelling-house used or occupied as such and which is zoned or otherwise designated for use under an environmental planning instrument for the purposes of industry, commerce or the erection of residential flat buildings, not being land referred to in paragraph (b) or (c),
- (b) a parcel of land (which may comprise one or more lots or portions in a current plan) on which there is a single dwelling-house used or occupied as such and which is zoned or otherwise designated under an environmental planning instrument so as to permit its subdivision for residential purposes, not being land referred to in paragraph (c),
- (c) a parcel of rural land (which may comprise one or more lots or portions in a current plan) which is zoned or otherwise designated under an environmental planning instrument so as to permit its use otherwise than as rural land, or its subdivision into two or more lots or portions, one or more of which has an area of less than 40 hectares.

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**Section 595 Rates to be written off after 5 years**

- (1) If 5 years have elapsed since the commencement of a rating year for which part of the rates levied on land have been postponed under this Division, the part postponed and any interest accrued on that part must be written off by the council.
  - (2) Nothing in this section affects the right of the council to recover rates and interest, even though they have been written off under this section, if it subsequently appears to the council that they should not have been written off.
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**Section 601 Hardship resulting from certain valuation changes**

- (1) A ratepayer who, as a consequence of the making and levying of a rate on a valuation having a later base date than any valuation previously used by a council for the making and levying of a rate, suffers substantial hardship, may apply to the council for relief under this section.
- (2) The council has a discretion to waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable by the ratepayer in such circumstances, for such period and subject to such conditions as it thinks fit.
- (3) An applicant who is dissatisfied with a council's decision under this section may request the council to review its decision and the council, at its discretion, may do so.

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**Section 710 Service of notices on persons**

- (1) A notice required by or under this Act to be served on a person may be served as provided by this section.
  - (2) The service may be:
    - (a) personal, or
    - (b) by delivering the notice at or on the premises at which the person to be served lives or carries on business, and leaving it with any person apparently above the age of 14 years resident or employed at the premises, or
    - (c) by posting the notice by prepaid letter addressed to the last known place of residence or business or post office box of the person to be served, or
    - (d) by transmitting the notice by facsimile transmission to a number specified by the person (on correspondence or otherwise) as a number to which facsimile transmissions to that person may be sent, or
    - (d1) by transmitting the notice by electronic mail to an email address specified by the person (on correspondence or otherwise) as an address to which electronic mail to that person may be transmitted, or
    - (e) by fixing the notice on any conspicuous part of the land, building or premises owned or occupied by the person, or
    - (f) in the case of an offence involving a vehicle, by attaching the notice to the vehicle, or
    - (g) if the person to be served maintains a box at a document exchange established in New South Wales, by depositing the notice in that box or leaving it at another such exchange for transmission to the first mentioned exchange for deposit in that box.
  - (2A) Subsection (2) (d1) does not authorise a notice to be transmitted to a person by electronic mail unless the person has requested the council, in writing, that notices of that kind be transmitted to the person by electronic mail, and has not subsequently withdrawn the request.
  - (2B) A person's request under subsection (2A) is taken to have been withdrawn in relation to a particular kind of notice only if the person has informed the council, in writing, that notices of that kind are no longer to be transmitted to the person by electronic mail.
  - (2C) While a person's request under subsection (2A) has effect in relation to a particular kind of notice, the address to which notices of that kind are to be transmitted is:
    - (a) the email address indicated in the request, or
    - (b) if the person subsequently directs the council, in writing, to transmit notices of that kind to a different email address, that different address.
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- (3) If a notice is deposited in a box, or left at a document exchange, service of the notice is, until the contrary is proved, taken to be effected 2 days after the day on which the notice is so deposited or left.
- (4) In addition to the means of service prescribed by subsection (2):
- (a) in any case where the person to be served is, or after inquiry appears to be, absent from New South Wales, the service may be on the agent of that person by any of the means prescribed by subsection (2) (a), (b), (c) or (d), and
- (b) in any case where the land, building or premises are unoccupied and the owner or the owner's address or place of residence is not known to the council, service by the council may be by advertisement in the approved form published in:
- (i) a newspaper circulating in the area or part of the area in which the land, building or premises are situated that is published in print form at intervals not exceeding 26 days, or
- (ii) a manner determined by the council having regard to the object of bringing notices to the attention of owners in cases of that kind, and
- (c) in the case of the service of a rates and charges notice, the service may be effected by delivering the notice to the premises at which the person to be served lives or carries on business and depositing it in a box or receptacle at, on or in the proximity of those premises that is provided, used or designed for the reception of letters addressed to that person.
- (5) The notice may be addressed by the description of "rateable person" or "owner" or "occupier" of the land, building or premises (naming or otherwise sufficiently indicating the same) in respect of which the notice is served, and without further name or description.
- (6) The notice may be wholly printed, wholly written or partly printed and partly written.
- (7) If a notice has been served by any of the means prescribed by this section, all inquiries required under this section are taken to have been made, and the service is conclusive evidence of them.
- (8) Proof by affidavit or orally that a notice has been posted, or its transmission by electronic mail has been initiated, in accordance with this section is conclusive evidence of service.
- (9) For the purposes of this section, a justice of the peace is authorised to take and receive an affidavit, whether any matter to which the affidavit relates is or is not pending in any court.
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**Section 713 Sale of land for unpaid rates and charges**

- (1) For the purposes of this Division, a rate or charge is overdue if:
- (a) in the case of vacant land, it has remained unpaid for more than one year, or
  - (b) in the case of any other land, it has remained unpaid for more than 5 years, from the date on which it became payable.
- (2) A council may, in accordance with this Division:
- (a) sell any land (including vacant land) on which any rate or charge has remained unpaid for more than 5 years from the date on which it became payable, and
  - (b) sell any vacant land on which any rate or charge has remained unpaid for more than one year but not more than 5 years from the date on which it became payable, but only if:
    - (i) the council obtains a valuation of the land from the Valuer-General, and
    - (ii) the total amount of unpaid rates or charges on the land exceeds the valuation, and
    - (iii) the council sells the land within 6 months after the date when the council received the valuation.
- (3) The council must not sell any such land unless the general manager or the public officer certifies in writing:
- (a) what rates and charges (including overdue rates and charges) are payable on the land, and
  - (b) when each of those rates and charges was made and how it was levied, and
  - (c) when each of those rates and charges became payable, and
  - (d) what amounts are payable by way of overdue rates and charges on the land, and
  - (e) what amounts are payable by way of rates and charges (other than overdue rates and charges) on the land.
- (4) The council may, in the case of adjoining parcels of land (whether in the same or different ownerships) each of which may be sold under this Division:
- (a) sell them separately or as a single parcel and under whatever conditions of sale it considers proper, and
  - (b) do such things as it considers appropriate for the purpose of selling the land at its full value.
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**Local Government (General) Regulation 2005****cl.127 Rates and charges notices**

(1) A rates and charges notice must contain the following information:

- (a) the land to which it relates,
- (b) the land value of the land to which it relates and the base date of the general valuation from which the land value is derived,
- (c) particulars of each rate or charge levied on the land by the notice,
- (d) if the rate consists of a base amount to which an ad valorem amount is added, particulars of the base amount,
- (e) the date the notice is taken to have effect,
- (f) particulars of any outstanding arrears of rates and charges levied on the land and of any interest payable on those amounts,
- (g) the total amount due and the dates for payment of the rates or charges concerned,
- (h) the amounts payable for, and the due dates for payment of, instalments of rates or charges,
- (i) particulars of any waiver of an amount of special rate in consideration of payment of a lump sum,
- (j) a statement that concessions are available to eligible pensioners for any quarter in which they are eligible pensioners,
- (k) particulars of any concession extended in respect of payment of the rates,
- (l) particulars of any discount for prompt payment in full of a rate or charge,
- (m) particulars of any postponement of rates or postponed rates,
- (n) particulars of any option to pay a lump sum towards the capital cost of any works, services or facilities instead of a special rate in the notice,
- (o) a statement that if payment is not made on or before the due date or dates interest accrues on the overdue amount,
- (p) a statement as to how to make inquiries about the notice,
- (q) the text, or a summary, of the following provisions of the Act (if applicable):
  - (i) section 524 (Notice of change of category),
  - (ii) section 525 (Application for change of category),
  - (iii) section 526 (Appeal against declaration of category),
  - (iv) section 555 (What land is exempt from all rates?),
  - (v) section 556 (What land is exempt from all rates, other than water supply special rates and sewerage special rates?),
  - (vi) section 557 (What land is exempt from water supply special rates and sewerage special rates?),
  - (vii) section 562 (Payment of rates and annual charges),
  - (viii) section 563 (Discount for prompt payment in full),
  - (ix) section 564 (Agreement as to periodical payment of rates and charges),
  - (x) section 566 (Accrual of interest on overdue rates and charges) (xi) section 567 (Writing off of accrued interest), (xii) section 574 (Appeal on question of whether land is rateable or subject to a charge),

## Appendix D

### Best practice procedures for contacting ratepayers

Councils should contact ratepayers if they have not paid their rates after a reminder notice is issued, and potentially in other circumstances in which rates and charges are owed.

Council officers can contact local residents and ratepayers without breaching their obligation to protect their privacy.

The following is an overview of some issues and practical considerations when contacting ratepayers about outstanding debt. If there is any doubt, councils should seek and be guided by their own legal advice.

#### When can a ratepayer be contacted?

##### 1. When you have a reasonable purpose for contacting a ratepayer

You must only contact a ratepayer for a *reasonable purpose* and only to the extent necessary. It may be necessary and reasonable if your purpose is to:

- make a demand for payment
- offer to work with the ratepayer to reach a flexible repayment arrangement
- accurately explain the consequences of non-payment, including any legal remedies available to the collector/creditor, and any service restrictions that may apply in the case of utilities
- make arrangements for repayment of a debt
- put a settlement proposal or alternative payment arrangement to the ratepayer
- review existing arrangements after an agreed period
- ascertain why earlier attempts to contact the ratepayer have not been responded to within a reasonable period, if this is the case
- ascertain why an agreed repayment arrangement has not been complied with, if this is the case

- investigate whether the ratepayer has changed their residential location without informing you, when there are grounds for believing this has occurred, or
- other similar purposes.

You may also contact a person at their request.

Whether or not a purpose is reasonable may depend on the personal circumstances of each ratepayer – e.g., if you know a person cannot make repayments (for example, because they are in jail) then continuing to contact them to demand payment is not reasonable or appropriate unless you know, or have good reason to think it is likely, that the ratepayer's financial situation has improved.

There may be circumstances where contact is made for a reasonable purpose, or contact is made initially for a reasonable purpose, and yet other relevant considerations mean the contact becomes unreasonable or unacceptable. Relevant considerations may include the ratepayer's mental illness or intellectual disability, or the ratepayer's incarceration.

If you make contact with a ratepayer in order to convey a demand for payment it may be contact for a reasonable purpose. However, if the ratepayer disputes liability and requests proof of a debt, and you continue to pursue that person without properly investigating the claims, then this will not be contact for a reasonable purpose.

##### 2. It is necessary and reasonable to contact the ratepayer (again)

It is not acceptable to harass a ratepayer. Make a written record of all contact with ratepayers and check these records before contacting a ratepayer. For this purpose *contact* is interpreted widely and includes:

- telephone calls and text messages – whether or not the person receives the call if you leave a message;
- all written correspondence – for example, this includes letters, emails, text messages, faxes, social media, instant chats and other private messages; and
- face to face contact – including contact at their work, home or elsewhere.

Importantly, if you phone a ratepayer and leave a message on their voice mail, and you also send the ratepayer an email, and a text message, then you will have made three separate contacts with that person.

Once you have made contact, leave a reasonable interval before next contacting the ratepayer. Give the ratepayer time to respond to your previous communications, and/or to organise payments if this has been agreed.

If you have spoken to the ratepayer and it is understood that the ratepayer requires a few days to speak to third parties or consider options, then contacting the ratepayer on the following day may be considered unreasonable, even though it is within the recommended limits.

**3. It is a reasonable time to contact the ratepayer, given their circumstances and reasonable wishes**

The following table sets out general guidance on what may be a reasonable time to contact a ratepayer.

Type of contact	Day	Reasonable contact times
<b>Contact by telephone</b>	Monday to Friday	7:30am – 9pm
	Weekends	9am – 9pm
	National public holidays	No contact recommended
<b>Face to face contact</b>	Monday to Friday	9am – 9pm
	Weekends	9am – 9pm
	National public holidays	No contact recommended
<b>All contact at the ratepayer’s workplace</b>	Ratepayer’s normal working hours if known, or 9 am to 5 pm on weekdays	

There may be reasons why contact during the above times is unreasonable, or contact outside these times is reasonable. For example, a ratepayer may ask that contact be made at other or more restricted times for various reasons, such as, because he or she is a shift worker, is responsible for children, or caring for a family member. He or she may also not wish to be contacted when other family members are present. In these and other such cases, the reasonable wishes of the ratepayers should be respected, and contact limited to the times requested.

However, you may alter the time of contact if, after reasonable efforts over a reasonable period of time to contact the ratepayer during normal hours or at the times requested, you have not been able to do so.

Generally, you should not contact a ratepayer more than three times per week, or 10 times per month at most (when contact is actually made, as distinct from attempted contact) and only when it is necessary to do so. This does not apply to face-to-face contact – you should not make more than one face-to-face contact with a ratepayer per month.

Think carefully about where to contact a ratepayer. In general, face to face visits should be an option of last resort after less intrusive means have failed. Particular care should be taken in visiting a person’s home or workplace.



**Ensure the person is the correct ratepayer before discussing their debt**

Before discussing the reason for making contact or any other confidential information, make sure you are speaking to the correct ratepayer. It is important that you do not reveal directly or indirectly that the ratepayer has a debt to another person. Particular care should be taken when calling a ratepayer's workplace.

If the ratepayer has requested contact by a particular means (such as email) or specifically asked not to be contacted a certain way, adopt that preference and avoid contacting them by other channels as far as possible.

Rate payers have the right to have an authorised representative (such as a financial counsellor, financial advisor, community worker, solicitor, guardian or carer) represent them or advocate on their behalf. Where possible, it is helpful if this advice is provided formally to council, such as in writing, to ensure council does not inadvertently discuss private information with unauthorised individuals.

If you know, or should know, a ratepayer has chosen to have another person represent them, you should not contact the ratepayer directly unless:

- the ratepayer specifically requests direct communication with you
  - the representative does not consent to represent the ratepayer or tells you he or she does not have instructions from the ratepayer about their debt
  - the representative does not respond to your communications within a reasonable time (normally seven days) and you advise the representative in writing after the reasonable time has passed that if they do not respond within the next seven days, you will make direct contact with the ratepayer; and
  - you advised the ratepayer you require a written authority which states that you are only to communicate through his or her representative, and you do not receive this in a reasonable time (normally seven days).
- Note: that this does not apply where the ratepayer's representative is a solicitor.*

Further exceptions may apply where the representative is not a qualified legal practitioner, qualified accountant or a financial counsellor.

**Provide the ratepayer with current information about their debt**

Make sure the ratepayer is told what they owe, when it was due, any payments they have made and what the payment was for. He or she may then request further information or documents.

It is also important to make sure that the ratepayer has contact details for the person or team managing their debt for council, such as contact phone number, postal address and email address, and that this information is included in all written correspondence to them.

**Conduct towards ratepayer must be respectful and appropriate at all times**

A ratepayer approached about an outstanding debt is entitled to respect and courtesy at all times by a council, debt collector or any of their agents or representative.

Inappropriate conduct, as outlined below, is likely to breach the law and the council's Code of Conduct. Ratepayers should never be subjected to

- **abusive, offensive, obscene, discriminatory language or disrespectful or demeaning remarks** – about character, situation in life, financial position, physical appearance, intelligence or other characteristics or circumstances
- **embarrassment or humiliation** – for example, by sending open correspondence to the ratepayer via a shared post-box, posting messages in a public online forum, making employers or co-workers aware that the ratepayer is being pursued for a debt, or creating an impression that the ratepayer is under surveillance
- **aggressive, threatening or intimidating behaviour** – for example, by shouting at or continually interrupting the ratepayer, or by refusing to listen to what they say
- use, or threat of violence or physical force, or

- **misleading information** – about the nature or extent of a debt, consequences of non-payment, identity (for example, falsely stating you work for a solicitor, court or government agency), or action not legally permitted to take (for example, to seize goods).

**Strategies for dealing with inappropriate behaviour by a ratepayer**

Inappropriate behaviour by a ratepayer does not justify unprofessional conduct by the collector and council staff and agents should deal with this using strategies such as:

- ensuring appropriate training of staff
- attempting to defuse inappropriate behaviour and refocus discussion on the outstanding debt and arrangements for its repayment
- escalating the matter to a senior staff member who has authority and training to manage such situations
- attempts to propose a viable and achievable repayment arrangement, and
- in the event of violence or other extreme conduct, cease contact immediately and refer the matter to the police.

**Ensuring contact details are up to date**

Currency of contact details is a huge issue for collecting rates and charges. Many councils feel that there is little advantage in sending additional correspondence or notices requesting payment when the address is not current.

Council policies and procedures may specify what the council will do to keep contact details current. When rates and charges notices are returned to the council, some councils proactively check other business areas of the council for more recent contact details, send information to both postal and physical addresses (where known), use internet searches and databases to ascertain more recent contact details, contact real estate agencies, keep a return mail register and undertake other searches.

**Keep accurate, up to date records and protect the ratepayer's privacy**

You should ensure you maintain accurate, complete and up-to-date records of all communication with ratepayers, including the time, date and nature of calls, records of any face to face contact, all correspondence sent and all payments made.

Councils and other organisations acting on their behalf should always treat a ratepayer's personal information with respect and ensure that they meet the requirements of the *Privacy and Personal Information Protection Act 1998* (the PPIPA) and their Privacy Management Plan prepared under the Act. Personal information means information or an opinion, whether it is true or not, about an individual that can reasonably allow the individual to be identified.

Particular care should be taken in collecting information about the ratepayer and their financial circumstances as well as disclosing that information, whether directly or inadvertently, to other people. For example, telling a ratepayer's neighbour the reason for trying to find the ratepayer would inappropriately disclose personal information about the ratepayer, as would leaving messages with inappropriate detail that may be seen or accessed by other people.

Councils use *Privacy Notification/Consent Forms* to enable the collection and use of personal information from ratepayers. The information collected cannot be used or disclosed for a purpose other than that for which it was collected, unless the ratepayer has consented or another exception applies.

Councils may consider reviewing their Privacy Notification/Consent Forms to request consent from residents and ratepayers for their personal information to be shared between internal business units of the council for purposes specified in the consent form, including for general administrative purposes including the collection rates and charges.

## Appendix E

### Hardship checklist for local government staff

No	Proposed action by a council	Progress
1	Has the council undertaken a risk assessment of likely defaulting ratepayers to proactively manage financial hardship?	
2	Has the council publically advertised or contacted applicable ratepayer(s) to identify payment options of rates?	
3	Has the council identified if interpretative services are required for the ratepayer?	
4	Has the council referred the rate payer to a financial Counsellor?	
5	Has the council entered into mediation or Informal Dispute Resolution (IDR)?	
6	Has the council deferred payment of additional charges while the hardship application is being assessed?	
7	Has the council developed a payment schedule?	
8	Has the council exhausted all possible options to managed hardship and recover debt prior to referring to the local courts?	
9	Has council reviewed the progress of payment against the signed payment plan?	
10	Are there other options to recover the debt?	

# Appendix F

## Hardship assistance application checklist for ratepayers

No	Proposed action by ratepayer	Y / N
1	Have you read your council's debt management and/or hardship policies?	
2	Have you compiled the required information noted in the application form?	
3	Have you contacted the nominated council officer to discuss options for the payment of rates or charges?	
4	Have you contacted a financial advisor?	
5	Have you identified an acceptable payment plan?	
6	Have you discussed your options with your local council?	

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## Further information

Relevant agencies

### NSW Office of Local Government

Physical Address 5 O'Keefe Avenue NOWRA NSW 2541  
Telephone 02 4428 4100  
Fax 02 4428 4199  
TTY 02 4428 4209  
Email [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)  
Postal Address Locked Bag 3015, NOWRA NSW 2541.  
Website [www.justice.nsw.gov.au](http://www.justice.nsw.gov.au)

### NSW Department of Justice

Physical Address Parramatta Justice Precinct, 160 Marsden Street  
Telephone 02 8688 7777  
Fax 02 8688 7980  
Postal Address Locked Bag 5111, Parramatta NSW 2124.  
Website [www.justice.nsw.gov.au](http://www.justice.nsw.gov.au)

### NSW Online Registry

Telephone 1300 679 272 (Call Monday – Friday 8:30am – 4.30pm)  
Website [www.onlineregistry.lawlink.nsw.gov.au](http://www.onlineregistry.lawlink.nsw.gov.au)

### Energy and Water Ombudsman

Physical Address Level 11, 133 Castlereagh Street, Sydney (please make an appointment)  
Telephone 1800 246 545  
Postal Address Reply Paid 86550, Sydney South NSW 1234.  
Website [www.ewon.com.au](http://www.ewon.com.au)

### Further guidance

Commonwealth of Australia (2007), *A guide for business: Debt Collection Guideline for collectors and creditors*, Australian Competition and Consumer Commission and Australian Securities and Investment Commission.

Revenue NSW, *Debt Recovery Guidelines – Responsible collection of State debts: Guidelines for Revenue NSW to collect State debt*



