

Code of Conduct for Councillors, Committee Members and candidates



Introduction

In accordance with *Local Government (Model Code of Conduct) Regulations 2021*, this is the Shire of Serpentine Jarrahdale (the Shire) Code of Conduct for Councillors, Committee Members and Candidates.

The code of conduct is comprised of six parts:

- Part 1: Behavioural requirements defined in Schedule 1 Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021*
- Part 2: Dealing with alleged breaches of the Code
- Part 3: General principles of the *Local Government (Model Code of Conduct) Regulations 2021*
- Part 4: Rules of Conduct (not covered by this Code)
- Part 5: Complaint Form
- Part 6: Response Form

Terms used

In this code:

“**Act**” means the *Local Government Act 1995*.

“**Candidate**” means a candidate for election as a Councillor.

“**Complaint**” means a complaint made under clause 11(1) of the *Local Government (Model Code of Conduct) Regulations 2021*.

“**Publish**” includes to publish on a social media platform.

Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Part 1: Behavioural requirements defined in Schedule 1 Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021*

Personal integrity

- 1) A Councillor, Committee Member or Candidate
 - a) must ensure that their use of social media and other forms of communication complies with this code; and
 - b) must only publish material that is factually correct.
- 2) A Councillor or Committee Member
 - a) must not be impaired by alcohol or drugs in the performance of their official duties; and
 - b) must comply with all policies, procedures and resolutions of the local government.

Relationship with others

A Councillor, Committee Member or Candidate -

- a) must not bully or harass another person in any way; and
- b) must deal with the media in a positive and appropriate manner, and in accordance with any relevant policy of the government; and
- c) must not use offensive or derogatory language when referring to another person; and
- d) must not disparage the character of another Councillor, Committee Member, Candidate, or a local government employee in connection with the performance of their official duties; and
- e) must not impute dishonest or unethical motives to another Councillor, Committee Member, Candidate, or a local government employee in connection with the performance of their official duties.

Council or committee meetings

When attending a council or committee meeting, a Councillor, Committee Member or Candidate -

- a) must not act in an abusive or threatening manner towards another person; and
- b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- c) must not repeatedly disrupt the meeting; and
- d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- e) comply with any direction given by the person presiding at the meeting; and
- f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

Part 2: Dealing with alleged breaches of the Code

Administering alleged breaches

In accordance with Regulation 11 of the *Local Government (Model Code of Conduct) Regulations 2021* a Complaint regarding an alleged breach of Part 1 of this Code must be made:

- in writing using the approved Complaint Form (shown in Part 5);
- to the person authorised by the Local Government (the complaints officer); and
- within 1 month after the occurrence of the alleged breach.

In accordance with Regulation 15, a complaint about an alleged breach by a Candidate cannot be dealt with by the Local Government unless the Candidate has been elected as a Councillor.

Upon receiving a Complaint, the complaints officer will provide the Response Form (as shown in Part 6) to the person to whom the complaint has been received.

The purpose of this form is to enable a person to whom a complaint under the model code has been received to be:

- notified of the allegation;
- provided an opportunity to respond to the allegation in accordance with Regulation 12 of the Regulations; and
- consulted with in regards to making a plan to address the behaviour in accordance with Regulation 12 of the Regulations (if a breach is found).

The information provided in this form may be published but personal information such as email addresses and phone numbers shall be redacted.

The person to whom the complaint under the model code has been made shall be given 14 days to respond.

The complaints officer will provide the Complaint Form and the Response Form (if completed) as the report to the Council to enable the Council to make a determination under Regulation 12.

Confidentiality

An allegation of an alleged breach must not be disclosed unless it is for the purposes of dealing with the complaint or otherwise in accordance with legislation or this code.

In accordance with s5.23(2)(f) the meeting that the matter is to be discussed is to be closed to the public as it could reasonably be expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.

When Council has found that a breach has occurred, it may under Regulation 29A of the *Local Government (Administration) Regulations 1996*, resolve that the completed complaint form and response form be made available for public inspection by including them as attachments to the minutes of the meeting.

Dismissing alleged breaches

When considering the matter, the local government must dismiss the Complaint under Regulation 13 if it is satisfied that

- a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
- b) either:
 - i. the behaviour was dealt with by the person presiding at the meeting; or
 - ii. the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.

If the local government dismisses the Complaint it must give written notice of its decision and reasons for its decision to the parties of the Complaint.

Withdrawing allegations

In accordance with Regulation 14, the complainant may withdraw the Complaint by writing to the complaints officer at any time before a finding is made.

Dealing with alleged breaches

Allegations of breaches are to be dealt with in accordance with the legislation and this Code as the procedure under Regulation 15 of the Regulations which states that the procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in the legislation.

The matter shall be dealt with by Council within six months of the receipt of the complaint, unless otherwise resolved by Council.

The matter is not to be discussed at any Councillor briefing session.

In accordance with section 5.41 of the Act, the notice paper for the meeting is to include the submitted Complaint Form and the Response Form (if it is submitted within 14 days of being provided to the complainant). No Officer Recommendation is required.

When considering the matter, the Council may dismiss the complaint as detailed above or must in accordance with Regulation 12 of the Regulations, make a finding as to whether the alleged breach has occurred.

To consider the matter, a Councillor who is not a party to the Complaint (either the complainant or the person alleged to have committed the breach) shall propose one of the following motions:

Motion of dismissal

That Council RESOLVES the alleged breach dated [insert date] related to the conduct of [insert name] be dismissed because the behaviour to which the complaint relates occurred at a council or committee meeting; and either:

- the behaviour was dealt with by the person presiding at the meeting; or
- the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.

Motion of that breach not substantiated

That Council RESOLVES the alleged breach dated [insert date] related to the conduct of [insert name] is found to be not substantiated.

Motion of substantiated allegation – no further action

That Council

- 1) RESOLVES that the alleged breach dated [insert date] related to the conduct of [insert name] is substantiated based on the reason that the complaint was properly made and met the relevant elements for determining a breach in accordance with this code and that the local government takes no further action.
- 2) RESOLVES in accordance with Regulation 29A of the *Local Government (Administration) Regulations 1996* that that the completed complaint form and response form be made available for public inspection by including them as attachments to the minutes of the meeting.

Motion of substantiated allegation – with sanction

That Council

- 1) RESOLVES that the alleged breach dated [insert date] related to the conduct of [insert name] is substantiated based on the reason that the complaint was properly made and met the relevant elements for determining a breach in accordance with this code and that the local government having consulted with the person by providing the opportunity presented in the response form, adopts the following requirements as a plan under Regulation 12 of the *Local Government (Model Code of Conduct) Regulations 2021* and requires the person to whom the complaint relates to by [insert date] [select as applicable]:
 - engage in mediation;
 - undertake counselling;
 - undertake training (to be specified);
 - take other action (to be specified).
- 2) RESOLVES in accordance with Regulation 29A of the *Local Government (Administration) Regulations 1996* that that the completed complaint form and response form be made available for public inspection by including them as attachments to the minutes of the meeting.

When determining the matter, the Council should consider the elements listed in the table below.

Elements in determining a breach

Category	Behavioral requirements	Elements in determining a breach	Recommended sanctions
Personal integrity	A Councillor, Committee Member or Candidate must ensure that their use of social media and other forms of communication complies with this code and must only publish material that is factually correct.	The communication in question must relate to matters involving the local government.	<ul style="list-style-type: none"> • Training • Public apology
	A Councillor or Committee Member must not be impaired by alcohol or drugs in the performance of their official duties and must comply with all policies, procedures and resolutions of the local government.	<p>The person's performance must be impaired by alcohol or drugs at the time that the alleged conduct occurred.</p> <p>and/or</p> <ul style="list-style-type: none"> • The Councillor or Committee Member must be acting in the performance of their official duties at the time that it was alleged that Councillor or Committee Member did not comply with the policy, procedure or resolution of the local government. • The policies, procedures and resolutions of the local government must have been published on the Shire's website at the time that the alleged conduct occurred. 	<ul style="list-style-type: none"> • Training • Public apology
Relationship with others	A Councillor, Committee Member or Candidate must not bully or harass another person in any way and must deal with the media in a positive and appropriate manner, and in accordance with any relevant policy of the local government.	<p>The behaviour in question must involve:</p> <ul style="list-style-type: none"> • abusive or offensive language or comments; or • aggressive and intimidating behaviour; or 	<ul style="list-style-type: none"> • Mediation • Counselling • Training • Public apology

Category	Behavioral requirements	Elements in determining a breach	Recommended sanctions
		<ul style="list-style-type: none"> • belittling or humiliating comments; or • practical jokes or initiation; or • unjustified criticism or complaints. <p>Differences of opinion and disagreements are not bullying or harassment.</p> <p>or</p> <p>The person who was not the Shire President purported to speak on behalf of the Shire (without authorisation).</p>	
	A Councillor, Committee Member or Candidate must not use offensive or derogatory language when referring to another person, and must not disparage the character of another Councillor, Committee Member, candidate, or a local government employee in connection with the performance of their official duties.	<ul style="list-style-type: none"> • The Councillor, Committee Member or Candidate either verbally, in writing or by some other means, used an expression (for example, any word, phrase or form of speech) which it is more likely than not that a member or members of the public present heard or otherwise became aware of. • The language was grossly offensive as to amount to vilification or intimation. • If the behaviour occurs at a Council or Committee meeting this is most appropriately dealt with under Standing Orders. 	<ul style="list-style-type: none"> • Mediation • Counselling • Training • Public apology
	A Councillor, Committee Member or Candidate must not impute dishonest or unethical motives to another Councillor, Committee Member, Candidate, or a local government employee in connection with the performance of their official duties.	<ul style="list-style-type: none"> • Differences of opinion do not constitute a breach. • The Council Member, Committee Member or Candidate either verbally, in writing or by some other means, made a statement (for example, a 	<ul style="list-style-type: none"> • Mediation • Counselling • Training • Public apology

Category	Behavioral requirements	Elements in determining a breach	Recommended sanctions
		<p>communication or declaration in speech or writing setting forth facts, particulars; etc.); and</p> <ul style="list-style-type: none"> Viewed objectively, the council member's statement (or a sufficiently clear inference from the words used) was that the Councillor, Committee Member, Candidate or employee was incompetent or dishonest. 	
Council or committee meetings	When attending a council or committee meeting, a Councillor, Committee Member or Candidate must not act in an abusive or threatening manner towards another person and must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading.	<ul style="list-style-type: none"> The behaviour in question must occur at a Council or Committee meeting. The behaviour in question must involve: <ul style="list-style-type: none"> abusive or offensive language or comments; or aggressive and intimidating behaviour; or belittling or humiliating comments; or practical jokes or initiation; or unjustified criticism or complaints. <p>or</p> <ul style="list-style-type: none"> The statements made must be knowingly false or misleading. 	<ul style="list-style-type: none"> Mediation Counselling Training Public apology
	A Councillor, Committee Member or Candidate must not repeatedly disrupt the meeting and must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings.	<ul style="list-style-type: none"> The person must not have responded to a request from the Presiding Member to preserve order; <p>or</p> <ul style="list-style-type: none"> When requested by the Council, committee or 	<ul style="list-style-type: none"> Mediation Counselling Training Public apology

Category	Behavioral requirements	Elements in determining a breach	Recommended sanctions
		<p>Presiding Member to withdraw, unreservedly withdraw any expression.</p> <ul style="list-style-type: none"> This is dealt with in the meeting procedures local law and most appropriately dealt with under the provisions of that local law. Contraventions of the local law can also be dealt with as a Rules of Conduct breach through the local government Standards Panel. 	
	<p>A Councillor, Committee Member or Candidate must comply with any direction given by the person presiding at the meeting and must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.</p>	<ul style="list-style-type: none"> The person must not have responded to a request from the Presiding Member to preserve order. This is dealt with in the meeting procedures local law and most appropriately dealt with under the provisions of that local law. Contraventions of the local law can also be dealt with as a Rules of Conduct breach through the local government Standards Panel. 	<ul style="list-style-type: none"> Mediation Counselling Training Public apology

Under Regulation 12 of the *Local Government (Model Code of Conduct) Regulations 2021*, when a breach of the code of conduct is found to have occurred the Council may:

- take no further action;
- engage in mediation;
- undertake counselling;
- undertake training; or
- any other action that the local government considers appropriate.

When ordering mediation, counselling or training the Council shall consider Council's policy on Councillor Training and Continuing Professional Development.

If ordering a public apology, Council shall consider the format and form of such an apology. In considering the forum it is noted that on occasion, the Local Government Standards Panel orders a public apology to be made on the local government's website and local newspaper as show in the box below.

Public apology by Councillor [insert name]

A complaint was made that I contravened the *Local Government (Model Code of Conduct) Regulations 2021*.

The Council has found that the Shire's Code of Conduct and deserving of a penalty.

I accept that I should not have engaged in the relevant conduct.

I now apologise to my fellow Councillors and the public

In considering the action to take, the Council shall consider:

- the seriousness of the breach;
- the contrition of the person who committed the breach; and/or
- actions taken by the person to address the conduct.

Following Council's resolution on a matter, the parties to the complaint shall be advised of Council's decision.

A register of complaints where a breach has been substantiated by Council and a penalty shall be maintained on the Shire's website. The register shall record the date of the complaint, the name of the Councillor or committee member found in breach and the sanction as resolved by Council.

Part 3 General principles of the Local Government (*Model Code of Conduct*) Regulations 2021 (not covered by this Code)

Schedule 1 Division 2 of the *Local Government (Model Code of Conduct) Regulations 2021* establishes general principles that should be observed by Council Members, Committee Members and Candidates.

Personal integrity

A Council Member, Committee Member or Candidate should —

- act with reasonable care and diligence; and
- act with honesty and integrity; and
- act lawfully; and
- identify and appropriately manage any conflict of interest; and
- avoid damage to the reputation of the local government.

A council member or committee member should —

- act in accordance with the trust placed in Council Members and Committee Members; and
- participate in decision-making in an honest, fair, impartial and timely manner; and
- actively seek out and engage in training and development opportunities to improve the performance of their role;
- attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

Relationship with others

A Council Member, Committee Member or Candidate should —

- treat others with respect, courtesy and fairness; and
- respect and value diversity in the community.

A Council Member or Committee Member should maintain and contribute to a harmonious, safe and productive work environment.

Accountability

A Council Member or Committee Member should —

- base decisions on relevant and factually correct information; and
- make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- read all agenda papers given to them in relation to council or committee meetings; and
- be open and accountable to, and represent, the community in the district.

Part 4: Rules of Conduct (not covered by this Code)

Division 4 of the *Local Government (Model Code of Conduct) Regulations 2021* establishes Rules of Conduct to be followed by Councillors, including when a Councillor is a Candidate or Committee Member. Rules of Conduct matters are dealt with in accordance with the procedures set out in the *Local Government (Model Code of Conduct) Regulations 2021* and are distinct from this Code.

The Rules of Conduct relate to:

- misuse of local government resources
- securing personal advantage or disadvantaging others
- prohibition against involvement in administration
- relationship with local government employees
- disclosure of information
- disclosure of interests
- compliance with a code of conduct action plan requirement.

Part 5: Complaint form -



Complaint About Alleged Breach Form - Code of Conduct for Council Members, Committee Members and Candidates

Schedule 1, Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021*

NOTE: A complaint about an alleged breach must be made—

- (a) in writing in the form approved by the local government; and
- (b) to an authorised person; and
- (c) within one month after the occurrence of the alleged breach.

Name of person who is making the complaint		
Given Name(s):		
Family Name:		
Contact details of person making the complaint		
Address:		
Email address:		
Contact number:		
Name of the local government (City, Town, Shire) concerned		
Name of the Council Member, Committee Member, Candidate alleged to have committed the breach		
Code of Conduct section within Part 1 alleged to have been breached		
State the full details of the alleged breach. Attach any supporting evidence to your complaint form		
Date of alleged breach:		
Declaration		
Signature of complainant:		
Date of signing:		

NOTE TO PERSON MAKING THE COMPLAINT:

This form should be completed, dated and signed by the person making a complaint of an alleged breach of the Code of Conduct. The complaint is to be specific about the alleged breach and include the relevant section/subsection of the alleged breach.



Shire of
Serpentine
Jarrahdale



Continued

Complaint About Alleged Breach Form - Code of Conduct for Council Members, Committee Members and Candidates

Signed complaint form is to be forwarded to:

Attention: Manager Governance

Email: info@sjshire.wa.gov.au

Postal address: Shire of Serpentine Jarrahdale

6 Paterson Street Mundijong WA 6123

Authorised Person Use Only	
Authorised person's name:	
Authorised person's signature:	
Date received:	

Part 6: Response form –



Response form - Alleged Breach of the Code of Conduct for Council Members, Committee Members and Candidates

Purpose of the form

The *Local Government (Model Code of Conduct) Regulations 2021* (the Regulations) sets out a framework for administering allegations of breaches of the model code.

The purpose of this form is to enable a person to whom a complaint under the model code has been received to:

- be notified of the allegation;
- provide an opportunity to respond to the allegation in accordance with Regulation 12 of the Regulations
- consult with the person in making a plan to address the behaviour in accordance with Regulation 12 of the Regulations (if a breach is found).

The information provided in this form may be published.

The person to whom the complaint has been made shall be given 14 days to respond.

Section 1 – to be completed by the Authorised person

Name of person who is making the complaint	
Given Name(s):	
Family Name:	
Contact details of person making the complaint	
Address:	
Email address:	
Contact number:	
Name of the Council Member, Committee Member, Candidate alleged to have committed the breach	
Date of alleged breach	
Details of the alleged breach provided by the complainant in the approved form.	



Continued

Response form - Alleged Breach of the Code of Conduct for Council Members, Committee Members and Candidates

Section 2 – to be completed by the person to whom the complaint relates

Contact details of person to whom the complaint relates	
Address:	
Email address:	
Contact number:	
Response to the alleged breach*	
Proposed plan to address the behaviour**	

* Regulation 12 of the *Local Government (Model Code of Conduct) Regulations 2021* states that before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard. Under Regulation 13 of the *Local Government (Model Code of Conduct) Regulations 2021* you may request that the complaint be dismissed if:

- the behaviour to which the complaint relates occurred at a council or committee meeting; and
- either —
 - the behaviour was dealt with by the person presiding at the meeting; or
 - the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.

** Under regulation 12 of the *Local Government (Model Code of Conduct) Regulations 2021*, in the event that the local government finds that a breach has occurred it may either take no further or action or prepare a plan to address the behaviour. The plan may include a requirement to do 1 or more of the following:

- engage in mediation;
- undertake counselling;
- undertake training;
- take other action the local government considers appropriate.

In this part of the form, the person to who the complaint relates should specify what action they believe Council should order.



Continued

Response form - Alleged Breach of the Code of Conduct for Council Members, Committee Members and Candidates

Signed complaint form is to be forwarded to:

Attention: Manager Governance

Email: info@sjshire.wa.gov.au

Postal address: Shire of Serpentine Jarrahdale

6 Paterson Street Mundijong WA 6123

Authorised Person Use Only	
Authorised person's name:	
Authorised person's signature:	
Date received:	

Reference:

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