### Behaviour Complaints Committee

|  |  |
| --- | --- |
| **Delegator:***Power / Duty assigned in legislation to:* | Local Government |
| **Express Power to Delegate:***Power that enables a delegation to be made* | *Local Government Act 1995:*s.5.16 Delegation of some powers and duties to certain committees |
| **Express Power or Duty Delegated:** | *Local Government (Model Code of Conduct) Regulations 2021*:Clause 12 Dealing with a complaintClause 13 Dismissal of complaint |
| **Delegate:** | **Behaviour Complaints Committee** |
| **Function:***This is a precis only.* *Delegates must act with full understanding of the legislation and conditions relevant to this delegation.* | 1. Authority to make a finding as to whether an alleged breach the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur *[MCC.cl.12(1) and (3)]*.In making any finding the Committee must also determine reasons for the finding *[MCC.cl.12(7)]*.2. Where a finding is made that a breach has occurred, authority to:a. take no further action *[MCC.cl.12(4(a)]*; orb. prepare and implement a plan to address the behaviour of the person to whom the complaint relates *[MCC.cl.12(4)(b), (5) and (6)]*. 3. Authority to dismiss a complaint and if dismissed, the Committee must also determine reasons for the dismissal *[MCC.cl.13(1) and (2)].* |
| **Council Conditions on this Delegation:** | ***GUIDANCE NOTE:*** *{Delete prior to finalising the Register for Council adoption} The following Conditions are examples only – modify or delete to meet your Local Government’s requirements.*a. The Committee will make decisions in accordance with the principles and specified requirements established in Council Policy XXX Code of Conduct Behaviour Complaints Management.b. That part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act.c. The Committee is prohibited from exercising this Delegation where a Committee Member in attendance at a Committee meeting is either the Complainant or Respondent to the Complaint subject of a Committee agenda item.d. In the event of (c) above, the Committee may resolve to defer consideration to a future meeting at which the conflicted Committee Member is absent and a Deputy Committee Member is in attendance. NOTE TO CONDITIONS (C) AND (D): The purpose of this Condition is to require that a Committee Member who is identified as either the Complainant or Respondent is required to recuse themselves by notifying the Presiding Member of their intention to be an apology for the meeting at which the Complaint is an agenda item. << Council has discretion to determine any other conditions limitations applicable to the use of delegated powers or duties >> |
| **Express Power to Sub-Delegate:** | Nil. |

|  |  |
| --- | --- |
| Compliance Links: | Council Policy XXX Behaviour Complaints Committee Terms of Reference Council Policy XXX Code of Conduct Behaviour Complaints ManagementCouncil Policy XXX Code of Conduct for Council Members, Committee Members and Candidates<<insert / list other legislation,Local Laws, policies and procedures which must be considered when making decisions under this delegation>> |
| Record Keeping: | Committee Minutes shall record the details of each decision made under this delegation in accordance with the requirements of Administration Regulation 19. |

**Version Control:**

|  |  |
| --- | --- |
| 1 | <<insert reference / detail identifying decision to adopt, amend the delegation>> |
| 2 |  |
| 3 |  |