WALGA Template   
Behaviour Complaints Committee Terms of Reference

**WALGA Note:**

This Template is to be read in conjunction with WALGA’s Policy Development Framework – Code of Conduct Behaviour Complaint Policy.

The WALGA Template – Behaviour Complaints Committee Terms of Reference has been developed with the intention of providing Local Governments with a decision-making mechanism that minimises the potential for conflicts of interest and apprehended bias. This is proposed to be achieved by establishing a Committee of Council, with delegated authority, to manage complaints received under Division 3 of the Local Government’s adopted Code of Conduct.

When developing a Behaviour Complaints Committee Terms of Reference, please consider:

* The guidance and advice included in the WALGA Policy Development Framework for Code of Conduct Behaviour Complaint Management Policy and the subsequent Policy proposed for adoption by your Local Government.
* The WALGA Template Delegation for Behaviour Complaints Committee and the subsequent delegation proposed for adoption by your Local Government.

The Behaviour Complaints Committee Terms of Reference should be developed to be consistent with the protocols specified by each Local Government in its Code of Conduct Behaviour Complaint Management Policy and any delegated authority to the Behaviour Complaints Committee.

Please contact WALGA Governance for further advice and guidance on implementing a Behaviour Complaints Committee – [governance@walga.asn.au](mailto:governance@walga.asn.au) or call 9213 2514.

# Policy Title: Behaviour Complaints Committee Terms of Reference

# Policy Objective

To establish Terms of Reference for the Behaviour Complaints Committee of the [insert LG name].

# Policy Scope

This Policy applies exclusively to the [insert LG name]’s Behaviour Complaints Committee.

# Committee Function

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the *Local Government Act 1995* (the Act) for the purpose of dealing with Behaviour Complaints made under Division 3 of the [insert LG name]’s Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

The extent of authority provided to the Behaviour Complaints Committee is specified in the relevant Delegated Authority, and includes:

* Dismissing a behaviour complaint in accordance with clause 13 of the Code of Conduct and providing reasons for any such dismissal.
* Making a Finding as to whether an alleged 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 it did not occur *[clause 12(3) of the Code of Conduct]*.
* Determining reasons for such a Finding.
* Where a Finding is made that a breach has occurred, determining:
  + To take no further action; or
  + Prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

The extent of authority of the Behaviour Complaints Committee is limited by Condition of the Delegated Authority.

# Membership

The Complaints Committee is a Committee of Council Members only in accordance with s.5.9(2)(a) of the Act.

Membership of the Behaviour Complaints Committee will comprise of [min of 3 members - s.5.8] Council Members, appointed by Council in accordance with s.5.10 of the Act.

In addition, at least [insert number] Council Members will be appointed as Deputy Committee Members in accordance with s.5.11A of the Act.

The Delegated Authority Condition prescribes that if an appointed Committee Member is identified in the Complaint as either the Complainant or the Respondent, they are to recuse themselves from the Committee’s Function by providing an apology. They are to be replaced for the duration of the handling of the subject Complaint by a Deputy Committee Member, selected by the Presiding Member of the Committee.

# Meeting Schedule

Meetings are to be scheduled as required by the CEO or Behaviour Complaints Officer in consultation with the Committee Presiding Member.

# Delegated Authority

The Behaviour Complaints Committee will act under Delegated Authority in accordance with s.5.16 of the Act. The delegation is recorded in the <<Shire/ Town / City of XXX>> Register of Delegations.

It is a Condition of Delegated Authority that the Behaviour Complaints Committee will be unable to exercise delegated authority if the Complainant or Respondent attend as a Complaints Committee Member.

# Committee Governance

Complaints Behaviour Committee meetings are required to:

* be called and convened by the CEO, as required, in consultation with the Committee’s Presiding Member;
* include public question time *[Admin.r.5]*
* make the Committee Notice Papers and Agenda publicly available *[s.5.94(p), s.5.96A(f)]*, with the exception of agenda content that relates to that part of the meeting which will be closed to members of the public under s.5.23(2) *[Admin.r.14]*; and
* make Committee minutes publicly available *[s.5.94(n), s.5.96A(h)]*, with the exception of Minutes content that relates to that part of the meeting which was closed to the public or was determined as confidential under s.5.23(2).

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| **Document Control Box** | | | | | | | | | | | |
| **Document Responsibilities:** | | | | | | | | | | | |
| **Owner:** | [insert Position Title] | | | | | **Owner Business Unit:** | | | [insert Unit Title] | | |
| **Reviewer:** | [insert Position Title] | | | | | **Decision Maker:** | | | Council | | |
| **Compliance Requirements:** | | | | | | | | | | | |
| **Legislation:** | | [Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a465.html)  [Local Government (Model Code of Conduct) Regulations 2021](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s52479.html) | | | | | | | | | |
| **Other:** | |  | | | | | | | | | |
| **Organisational:** | | Council Policy XXX Code of Conduct Behaviour Complaints Management  Delegated Authority XXX Behaviour Complaints Committee | | | | | | | | | |
| **Document Management:** | | | | | | | | | | | |
| **Risk Rating**: | | **[low / med / high]** | **Review Frequency**: | | **[annaul / biennial / triennial]** | | **Next Due:** | **[20##]** | | **Records Ref:** | **[CP####]** |
| **Version #** | **Decision Reference:** | | | **Synopsis:** | | | | | | | |
|  | [decision date / TRIM Ref] | | | [brief description of the adoption / changes approved] | | | | | | | |
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