DISTRICT COUNCIL OF Streaky Bay
29 Alfred Terrace, Streaky Bay SA 5680
T: (08) 8626 1001 **E:** dcstreaky@streakybay.sa.gov.au

CODE OF CONDUCT FOR COUNCIL MEMBERS

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CODE OF CONDUCT FOR COUNCIL MEMBERS

Local Government Act 1999: Section 63 (1)

NOTICE under Clause 3.10 of the Code of Conduct for Council Members published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999.

For the purposes of Clause 3.10 of the Code of Conduct for Council Members adopted for the purposes of Section 63 (1) of the Local Government Act 1999 and published in the *Gazette* on the day on which this Notice is made, the value of $100 is specified.

Dated 18 August 2013.

JOHN RAU, Deputy Premier, Minister for Planning

Code of Conduct for Council Members

Published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999

This Code of Conduct is to be observed by all Council members

Council members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

PART 1—PRINCIPLES

1. Higher principles - Overarching Statement

This part does not constitute separate enforceable standards of conduct.

Council members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist members to meet their responsibilities under the Local Government Act 1999.

Council members will comply with all legislative requirements of their role and abide by this Code of Conduct.

2. Behavioural Code

In line with 'Part 1—Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council members that does not meet the reasonable community expectations of the conduct of Council members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election.

Council members must:

General behaviour

2.1 Show commitment and discharge duties conscientiously.
2.2 Act in a way that generates community trust and confidence in the Council.
2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
2.4 Show respect for others if making comments publicly.
2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.

Responsibilities as a member of Council

2.6 Comply with all Council policies, codes and resolutions.
2.7 Deal with information received in their capacity as Council members in a responsible manner.
2.8 Endeavour to provide accurate information to the Council and to the public at all times.

Relationship with fellow Council Members

2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
2.10 Not bully or harass other Council members.

Relationship with Council staff

2.11 Not bully or harass Council staff.
2.12 Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
2.13 Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

Requirement to report breach of Part 3

2.15 A Council member who is of the opinion that a breach of Part 3 of this Code (Misconduct) — has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
2.16 A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

Complaints

2.17 Any person may make a complaint about a Council member under the Behavioural Code.
2.18 Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.
2.19 A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.
2.20 A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.
2.21 A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.
2.22 A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.
2.23 Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
2.24 A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

Findings

1.25 If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:

2.25.1 Take no action;
2.25.2 Pass a censure motion in respect of the Council member;
2.25.3 Request a public apology, whether written or verbal;
2.25.4 Request the Council member to attend training on the specific topic found to have been breached;
2.25.5 Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);
2.25.6 Request the member to repay monies to the Council.

PART 3—MISCONDUCT

3. Misconduct

Failure by a Council member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the Local Government Act 1999. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under Section 263 of the Local Government Act 1999, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Council member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

Member duties

Council members must:

3.1 Act honestly at all times in the performance and discharge of their official functions and duties;
3.2 Perform and discharge their official functions and duties with reasonable care and diligence at all times;
3.3 Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence;
3.4 Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
3.5 Not attempt to improperly direct a member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;
3.6 Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

Gifts and benefits

3.7 Council members must not:

3.7.1 Seek gifts or benefits of any kind;
3.7.2 Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
3.7.3 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.

3.8 Notwithstanding Code 3.7, Council members may accept campaign donations as provided for in the Local Government (Elections) Act 1999.

3.9 Notwithstanding Code 3.7.3, Council members may accept hospitality provided in the context of performing their duties, including:

3.9.1 Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:

3.9.1.2 Council work related events such as training, education sessions workshops and conferences;
3.9.1.3 Council functions or events;
3.9.1.4 Social functions organised by groups such as Council committees and community organisations.
3.9.2 Invitations to, and attendance at, local social, cultural or sporting events.

3.10 Where Council members receive a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

Register of Interests

3.11 Council members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

Campaign donation returns

3.12 Council members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

Conflict of interest

3.13 Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the Local Government Act 1999.

Misuse of Council resources

3.14 Council members using Council resources must do so effectively and prudently.
3.15 Council members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.
3.16 Council members must not use public funds or resources in a manner that is irregular or unauthorised.

Repeated or sustained breaches of Part 2

3.17 At the discretion of the Council to which the member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.

3.18 A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

APPENDIX—CRIMINAL MATTERS

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999

Member duties

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (3)).

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (4)).

Provision of false information

A member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the Local Government Act 1999, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 69).

Restrictions on publication of information from Register of Interests

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (Section 71).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by Section 5 of the Independent Commissioner Against Corruption Act 2012, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the
- offence;
- conspiring with others to effect the commission of the offence.