

Application of the Code of Conduct and Examples

Local Government Act 2019 (NT)

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Supplementary Document – Application of the Code of Conduct and Examples

1. Title

Title

This supplementary document may be cited as the *Application of the Code of Conduct and Examples*.

2. Definitions

Statutory definitions

Decision-makers must refer to the statutory definitions in the Act, particularly sections 7 and 119, and the prescribed Code of Conduct in Schedule 1A of the Regulations.

Definitions

The following key defined terms apply throughout this Supplementary document:

Act means the *Local Government Act 2019* (NT).

CEO of a council means the council's chief executive officer as appointed under section 165(1) of the Act, who is in charge of day-to-day operations of the council.

CEO of the Agency means the Chief Executive Officer of the Department of Housing, Local Government and Community Development.

Chapter means a numbered section of this document.

Code of Conduct means the Code of Conduct prescribed under section 120 of the Act and included in Schedule 1A of the Regulations.

Code of Conduct panel means a panel established under the Act by the secretariat in accordance with section 132K.

Complainant means a person who makes a complaint under section 132A or 132B of the Act.

Decision-maker means the person making a decision regarding the complaint and may include the council, an independent assessor, or a Code of Conduct panel and its members.

Dismissal of complaint means dismissal on the grounds that misconduct did not occur or on the grounds of the complaint being frivolous, vexatious, trivial or not made in good faith. See Chapter 11 of the Ministerial Guideline – Code of Conduct Framework for definitions of frivolous, vexatious, trivial or not made in good faith that apply to this Supplementary document.

Gross misconduct means conduct by a member that breaches the Code of Conduct and consists of any of the following:

- (a) corruption;
- (b) a criminal offence;
- (c) repeated serious misconduct; or
- (d) behaviour demonstrating the member's unfitness for office.

Independent assessor means a member of the pool of persons appointed under section 121 of the Act.

Member means (according to context) a member of an audit committee, a council, a council committee or a local authority (Act, s 7, definition of member).

Misconduct means conduct by a member that breaches the Code of Conduct.

Regulations means the *Local Government (General) Regulations 2021* (NT).

Sanction means any action taken by a council, an independent assessor or a Code of Conduct panel to resolve a complaint, other than to take no further action. A decision to take no further action is not a sanction and cannot be the ground for a subsequent non-compliance referral under section 132T of the Act.

Secretariat means the secretariat mentioned in section 126(1) of the Act.

Serious misconduct means conduct by a member that breaches the Code of Conduct if the conduct:

- (a) causes a serious and imminent risk to the reputation, viability or resources of a local government council; or
- (b) consists of bullying, intimidation, sexual harassment, assault or physical or verbal abuse; or
- (c) consists of theft or fraud; or
- (d) consists of being impaired by alcohol or illicit drugs while exercising the powers or performing the duties of the member; or
- (e) consists of refusing to carry out a reasonable direction of a council consistent with the member's duties under this Act; or
- (f) consists of non-compliance with a sanction imposed by a council, an independent assessor or a Code of Conduct panel.

Interpretative Aids

The *Interpretation Act 1978* (NT) contains definitions and provisions relevant to the Act.

Decisions of similar bodies in other jurisdictions may provide useful guidance for decision-makers (see **Annexure B – Illustrative scenarios and interstate examples**), subject to the factual context and requirements of the Act.

3. Code of Conduct

This Chapter is a plain-language summary for practical purposes only and in no way limits the operation of the Code of Conduct, the Act or the Regulations. If there is any inconsistency between this summary and the Code of Conduct, the Code of Conduct prevails.

When does the Code of Conduct apply?

The Code of Conduct applies to a member's conduct when exercising their powers or performing their functions under the Act, and in relation to the council of which they are a member (Code of Conduct, cl 2). Purely private conduct is outside of the scope.

Conduct that is perceived to be a private matter may still be covered by the Code of Conduct where the member is presenting themselves as acting in an official capacity or role. The following may assist with determining whether the conduct of a member is covered by the Code of Conduct:

- ▼ the member has identified themselves as a member in correspondence, social media biographies, event name tags, or signage;
- ▼ the member is attending in an official capacity, in council attire, or at a council-endorsed event;
- ▼ the member is using council property, a council email account, council letterhead, or council premises for official business;
- ▼ the member is commenting on a matter that is currently (or may soon be) before the council;
- ▼ the conduct is directed at a council employee; or
- ▼ if another person engages in discussions regarding a council matter with a member and the member actively engages on that council matter.

Whether the Code of Conduct applies depends on the circumstances. It only applies when a member actively takes part in an interaction in a way that relates to their role as a member. Members do not need to identify themselves as members in every interaction. However, if they choose to engage on a council matter and make it clear they are acting in their role as a member, the Code of Conduct is likely to apply.

Example: the parking dispute

A member gets into a neighbourhood dispute about parking. In the course of that dispute, the member tells the neighbour they will raise the matter at council. By invoking their role, the member has brought the conduct within scope. The Code of Conduct applies to the member's conduct in the dispute from that point.

Example: community Facebook group

A resident posts in a community Facebook group that a member has a conflict of interest in a matter before the Council. The member replies from their personal Facebook account, using language that is abusive toward the resident. Because the subject is council business, and the member has engaged on it, the Code of Conduct applies to the reply. Using a personal account does not take the reply outside scope.

Example: small community recognition

A member attends a community event in what they consider a private capacity. A community member approaches them about a council matter. If the member engages on the council topic rather than explaining they are present in a private capacity, the Code of Conduct applies to that engagement from that point.

Clause 3 of the Code of Conduct: Personal Integrity

Clause 3 sets out the following duties that apply at all times during a member's tenure. These duties work together and none displaces any other.

3.1.1. Care and diligence (clause 3(a))

A member must act with reasonable care and diligence. This means being properly informed before making decisions, asking questions when information is unclear, and considering the consequences of their actions.

3.1.2. Honesty and integrity (clause 3(b))

A member must act with honesty and integrity in all dealings in their role: with other members, council staff, contractors, and the community. This covers straightforward truthfulness and also extends to not misleading others even when no technically false statement is made.

3.1.3. Acting lawfully (clause 3(c))

A member must act lawfully. This extends beyond the Act to all applicable Northern Territory and Commonwealth law, including the *Anti-Discrimination Act 1992* (NT), the *Work Health and Safety (National Uniform Legislation) Act 2011* (NT), and applicable anticorruption and criminal law.

3.1.4. Conflicts of interest (clause 3(d))

A member must identify and manage any conflict of interest. This duty applies at all times when acting in their role, including before and during meetings and briefings. Part 7.2 of the Act (Act, ss 110–117) sets out what a conflict of interest is, how it must be disclosed, and how it is recorded. In most cases, a member must disclose the conflict and not take part in the decision.

Example: the mid-meeting disclosure

A member arrives at a council meeting and discloses no interests before discussion begins on a new lease for the building. During the debate, the member realises that the Landlord of the building is closely related to their spouse. Clause 3(d) is relevant at that moment. The member must declare the conflict immediately and withdraw from the rest of the discussion and the vote, regardless of how far the meeting has progressed. Continuing to participate after that realisation breaches clause 3(d).

3.1.5. Protecting council reputation and public trust (clauses 3(e) and (f))

A member must not engage in conduct that is likely to bring the council into disrepute (clause 3(e)). A member must also act in a way that maintains the public trust placed in members (clause 3(f)).

3.1.6. Decision-making (clause 3(g))

A member must participate in decision-making in an honest, fair, impartial and timely manner (clause 3(g)). This means a member must come to each decision with an open mind, consider the facts before making up their mind, and not deliberately delay or block the process.

A member who has already decided how they will vote before hearing the relevant information, or who tries to delay or block a decision for the wrong reasons, may be in breach of clause 3(g).

3.1.7. Training (clauses 3(h) and (i))

Clause 3(h) requires members to actively seek out and engage in training and development opportunities. Clause 3(i) requires attendance and participation within the required time in training sessions required under section 45 of the Act.

The CEO of the Agency determines requirements and publishes them on the Agency website. Members must also attend briefings, workshops and training sessions arranged by the council for members in relation to performing their functions.

Clause 4 of the Code of Conduct: Relationship with others

Clause 4 governs how a member treats everyone they deal with in their role: other members, council staff, members of the public, and anyone else.

3.1.8. Respect, courtesy and fairness (clause 4(a))

A member must treat others with respect, courtesy and fairness. The standard is objective: it does not matter that the member did not intend disrespect. Disrespect can take many forms, including overt abuse, dismissive treatment and deliberate humiliation.

3.1.9. Diversity (clause 4(b))

A member must respect and value diversity in the community (cl 4(b)). In the Territory this clause is particularly important. Members should respect diversity in multiculturalism. They should aim to engage with relevant cultural protocols in good faith.

3.1.10. Safe and productive environment (clause 4(c))

A member must maintain and contribute to a harmonious, safe and productive work environment. This is important for psychosocial safety obligations and operates alongside the council's duties under the *Work Health and Safety (National Uniform Legislation) Act 2011* (NT).

3.1.11. Bullying and harassment (clause 4(d))

A member must not bully or harass any person in any way.

Bullying typically involves repeated unreasonable behaviour directed at a person that creates a risk to their health and safety, including psychological health. A pattern of behaviour may be bullying even where no single incident is severe. Sexual harassment is prohibited by sections 18B and 22 of the *Anti-Discrimination Act 1992* (NT).

3.1.12. Offensive language, disparagement and false suggestions (clauses 4(f), (g) and (h))

These provisions work together. Clause 4(f) prohibits offensive or derogatory language about any person.

Clause 4(g) prohibits a member from making personal attacks on another member or council employee in relation to their official duties.

Clause 4(h) prohibits a member from accusing another member or council employee of being dishonest or acting unethically unless there is reasonable evidence to support the claim.

Members can criticise a person's actions or decisions, but they must not make personal attacks or make allegations about a person's motives without evidence.

Example: suggested dishonest motive

After losing a vote on a contract, a member posts on their council Facebook page that other members 'did deals with their mates.' This engages clause 4(h): dishonest motives are suggested to other members without reasonable evidence. If a member genuinely believes on reasonable grounds that another member has engaged in misconduct, the appropriate course is to lodge a complaint under Part 7.4 of the Act in accordance with clause 8 of the Code of Conduct, supported by the relevant evidence.

Clause 5 of the Code of Conduct: Accountability

3.1.13. Factually correct information (clause 5(a))

A member must base decisions on relevant and factually correct information. A member who votes without reviewing the available material breaches clause 5(a). So does a member who proceeds on information they know or should know is wrong.

3.1.14. Merit and public interest (clause 5(b))

Decisions must be made based on what is best for the community, following the law, good governance principles, and fair processes. When voting, a member must act in the public interest, not for personal benefit, convenience, or political gain.

3.1.15. Agenda papers (clause 5(c))

A member must read, or be briefed on, all agenda papers given in relation to a council or committee meeting (cl 5(c)). A member who consistently comes to meetings without having read the relevant papers is breaching the Code of Conduct regardless of how they vote.

Possible signs a member did not read or was not briefed on the meeting papers:

- **A pattern of asking questions at meetings that are clearly answered in the agenda papers** – this suggests the member has not reviewed the material before the meeting.
- **An inability to engage with the substance of items under discussion** – the member cannot meaningfully participate because they are unfamiliar with the content.
- **Statements by the member acknowledging they have not read the material** – direct admissions.
- **A demonstrated lack of awareness of matters plainly set out in the papers provided** – the member's contributions reveal ignorance of information that was available in the agenda papers.

The examples above are only some signs to look for. They do not cover every situation. A decision should be based on all the facts, not just one sign.

3.1.16. Openness and accountability (clause 5(d))

A member must be open and accountable to, and represent, the community in the local government area. This reflects the representative character of the role.

Clause 6 of the Code of Conduct: Social Media

Clause 6 has two obligations. First, a member's use of social media and any other form of communication must comply with the Code of Conduct as a whole (cl 6(a)). Second, a member must not publish material that they know, or could reasonably be expected to know, is factually incorrect (cl 6(b)). The Code of Conduct defines 'publish' in clause 6 to include publishing on any social media platform.

Clause 6(a) means every other clause of the Code of Conduct applies to social media conduct as a member. A breach of clause 4, whether offensive language, disparagement of staff, or suggestion of dishonest motives, does not become less of a breach because it appears on Facebook, X, LinkedIn or another platform rather than at a council meeting.

Whether a post, comment, or reply is conduct as a member depends on interpretation of clause 2 of the Code of Conduct.

Clause 7 of the Code of Conduct: Use of alcohol and compliance with policies and procedures

3.1.17. Alcohol and drugs (clause 7(1))

A member must not be impaired by alcohol or drugs while exercising their functions. This means a person's physical or mental ability is reduced, so they cannot safely, clearly, or appropriately perform their duties or responsibilities. This applies to every context in which the member is acting as a member. It applies to council and committee meetings, briefings, workshops, official representation functions, and meetings with the public in an official capacity. Being impaired while exercising functions is also serious misconduct under section 119 of the Act (see definition of serious misconduct).

3.1.18. Policies, procedures and resolutions (clause 7(2))

A member must comply with all council policies, procedures and resolutions. This obligation applies even where the member voted against the resolution in question. Refusing to carry out a reasonable direction of the council that is consistent with a member's duties is also serious misconduct (see section 119 of the Act, for definition of serious misconduct).

Clause 8 of the Code of Conduct: Perceived misconduct

A member who believes on reasonable grounds that another member has engaged in misconduct must make a complaint according to clause 8 of the Code of Conduct, **unless the member knows that the conduct has already been the subject of a complaint.**

A member who makes a complaint in good faith and on reasonable grounds is meeting a legal requirement.

A member who becomes aware of clear misconduct and does nothing about it may themselves breach clause 8. The duty creates accountability in both directions.

Note: The obligation under clause 8 of the Code of Conduct applies to members only, as the Code of Conduct governs member conduct. CEOs are not members and are not subject to the Code of Conduct. However, a CEO who becomes aware of potential member misconduct may lodge a complaint under section 132A or 132B of the Act, and may have separate reporting obligations under other legislation, see Chapter 5.4 of the Ministerial Guideline – Code of Conduct Framework.

Clause 9 of the Code of Conduct: Council and committee meetings

Clause 9 sets out obligations that apply whenever a member is attending a council or committee meeting.

A member must not act in an abusive or threatening manner (cl 9(a)), must not make a statement that they know or could reasonably be expected to know is false or misleading (cl 9(b)), and must not repeatedly disrupt the meeting (cl 9(c)). The prohibition on false or misleading statements applies to everything said in a meeting, not only formal motions. Statements made in a council meeting carry public weight and must be made responsibly.

Clauses 9(d), (e) and (f) together require compliance with the chair's authority. A member must comply with the supplementary documents governing the meeting (cl 9(d)), comply with any direction given by the presiding person (cl 9(e)), and immediately stop conduct ruled out of order (cl 9(f)).

Clause 10 of the Code of Conduct: Misuse of council resources

Clause 10(1) prohibits members from using council resources for an electoral purpose or any other purpose unless the use is authorised under the Act, by the council, or by the CEO. Council resources are broadly defined in clause 10(2) as council property and services provided or paid for by the council. This includes items such as vehicles, computers, phones, email accounts, social media pages, and staff time.

An electoral purpose means trying to influence how people vote at an election, referendum, or poll under the Act, the Electoral Act 2004 (NT), or the Commonwealth Electoral Act 1918 (Cth). Council resources must not be used to support a candidate, election campaign, or voting outcome.

Members should take particular care before elections to ensure council resources are not used in a way that could benefit any candidate.

Clause 11 of the Code of Conduct: Securing personal advantage or disadvantaging others

Clause 11 prohibits making improper use of the office of member to gain an advantage, directly or indirectly, for the member or any other person. It also prohibits using the office to cause harm to the council or any person.

include using inside knowledge of council deliberations to benefit a related business; using the profile of the position to direct commercial opportunities to a connected party; threatening adverse council action to obtain a personal favour; obstructing council decisions in order to cause harm to a particular person.

Clause 11 operates in addition to the conflict of interest provisions in Part 7.2 of the Act (see ss 110 to 117), and conduct that engages clause 11 often also engages those provisions.

Clauses 12 and 13 of the Code of Conduct: Administration and staff

Clauses 12 and 13 together enforce the fundamental separation between members and the council administration.

3.1.19. Non-involvement in administration (clause 12)

Clause 12(1) prohibits a member from undertaking any task that contributes to the administration of the council, unless authorised by the council or the CEO.

A member asking questions or making recommendations at a council or committee meeting is not in breach. Outside council or committee meetings, a member is in breach if they contact a contractor directly, involve themselves in staff HR matters, or handle administrative tasks that are the CEO's responsibility.

3.1.20. Directing staff (clause 13(1))

A member must not direct or attempt to direct a council employee in their capacity as an employee (cl 13(1)(a)). A member must not attempt to influence an employee's conduct through threat or promise of reward (cl 13(1)(b)). A member must not act in an abusive or threatening manner toward an employee (cl 13(1)(c)).

3.1.21. Narrow exceptions (clause 13(2))

Clause 13(2) provides two limited exceptions to clause 13(1)(a) only. Members may give directions as part of deliberations at a council or committee meeting and to the CEO.

3.1.22. Language at meetings and events (clause 13(3))

When attending a council or committee meeting, briefing, or workshop, a member must not state (in any form) that a council employee is incompetent or dishonest. A member must not use offensive or objectionable language when referring to an employee. Council staff are not in a position to respond to such statements in the public forum. Clause 13(3) reinforces the need to act with restraint.

Example: direct instruction to rates

A member contacts council rates officer directly and instruct the officer to amend a briefing note before it is provided to the council. This engages clause 12(1) (contributing to administration without authorisation) and clause 13(1)(a) (directing an employee).

This is not a relevant exception under clause 13(2) because the contact is outside a council or committee meeting and is not a direction to the CEO. If the member makes a suggestion there might be consequences for the officer if the change is not made, clause 13(1)(b) is also relevant.

Clause 14 of the Code of Conduct: Compliance with sanctions

Clause 14 requires a member to comply with any sanction imposed under Part 7.4 of the Act.

A member who does not comply with a sanction commits a separate act of serious misconduct under section 119(f) of the Act. This applies whether the sanction was imposed by a council (under s 132G), an independent assessor (Act, s 132J), or a Code of Conduct panel (Act, s 132N). Non-compliance triggers the non-compliance referral mechanism (Act, s 132T).

If a member does not pay a monetary penalty within the required time, complete required training, or issue a directed apology this does not remain subject to the original sanction. They commit a separate act of serious misconduct that may be referred to the Code of Conduct panel under section 132T and may result in additional or escalated sanctions.

The member must do what the sanction requires and must do it by the specified date.

Key point

Every breach of clause 14 is also a separate act of serious misconduct (see section 119 of the Act, for definition of serious misconduct). Non-compliance triggers a new process with its own escalation pathway (see Secretariat Pathway).

Annexure A– Code of Conduct: quick reference

Schedule 1A, Local Government (General) Regulations 2021 (NT) | Section 120, Local Government Act 2019 (NT)

CLAUSE	WHAT IT MEANS
Scope (cl 2, s 120)	The Code of Conduct applies when a member is exercising powers or performing functions under the Act or acting in relation to their council. Private conduct is outside scope unless the member holds themselves out as acting in their role or could reasonably be perceived to be doing so.
3 Personal integrity	Act with reasonable care, honesty and diligence. Act lawfully. Identify and manage conflicts of interest (Act, ss 110-117). Protect the council's reputation. Participate in decisions fairly, honestly and on time. Attend training required under s 45 and arranged by the council.
4 Relationship with others	Treat everyone with respect, courtesy and fairness. Value diversity, including Aboriginal cultural diversity. Maintain a safe and productive environment. Do not bully or harass. Do not use offensive or derogatory language. Do not impute dishonest motives to others without evidence.
5 Accountability	Base decisions on relevant and factually correct information. Make decisions on merit and in the public interest. Read or be briefed on all agenda papers. Be open and accountable to the community.
6 Social media	All other Code of Conduct obligations apply to social media and other communications as a member. Do not publish material known or reasonably expected to be factually incorrect. Liking or sharing may amount to endorsement.
7 Alcohol, policies and procedures	Do not exercise member functions while impaired by alcohol or drugs (also serious misconduct under section 119(d)). Comply with all council policies, procedures and resolutions, including those members voted against.
8 Perceived misconduct	A member who believes on reasonable grounds that another member has engaged in misconduct must make a complaint under Part 7.4. Making a complaint in good faith is a statutory duty, not grounds for a finding of bad faith if the complaint does not succeed.
9 Council and committee meetings	No abusive or threatening conduct. No statements known or reasonably expected to be false or misleading. No repeated disruption. Comply with by-laws, standing orders and every direction of the presiding person. Immediately stop the conduct ruled out of order.
10 Misuse of resources	Do not use council resources (property, email, vehicles, phones, letterhead, staff time, social media pages) for electoral purposes or other unauthorised purposes. Electoral purpose means persuading electors to vote in a particular way under the Act, <i>Electoral Act 2004</i> (NT), or <i>Electoral Act 1918</i> (Cth).
11 Improper advantage	Do not make improper use of the position of member to gain an advantage (directly or indirectly) for yourself or any other person, or to cause detriment to the council or any person.
12-13 Administration and staff of the council	Do not undertake administrative tasks unless authorised by the council or CEO (cl 12). Do not direct, threaten, or attempt to improperly influence council employees (cl 13(1)). Do not describe employees as incompetent or dishonest at meetings, briefings or workshops (cl 13(3)). The only exceptions are formal deliberations at council meetings and directions to the CEO (cl 13(2)).
14 Compliance with sanctions	Comply with every sanction imposed under Part 7.4 in full and on time. Non-compliance is itself serious misconduct (see definition of serious misconduct in section 119 of the Act), triggering a separate referral pathway.

This is a summary only. In the event of any inconsistency, Schedule 1A of the Regulations applies. For the complaints and sanctions framework see Part 7.4 of the Act and the supplementary document made under section 342 of the Act.

Annexure B - Scenarios and interstate examples

Part A - Hypothetical scenarios

A.1 Meeting conduct corrected in session.

A member speaks in an inappropriate way at a meeting. The chair intervenes, the member apologises, and the issue is resolved. A later complaint may be dismissed under section 132E(2)(b), if the conduct was dealt with during the meeting or under meeting procedures. The CEO should refer the complaint to the council (Act, s 132A(3)(a)), and the council should decide the matter under section 132E. If the behaviour continues, becomes abusive or threatening, or disrupts the council, it may fall within serious misconduct under section 119. Clause 9 of the Code of Conduct sets rules about meeting behaviour, including not being abusive, disruptive, or ignoring the chair.

A.2 Improper direction to staff.

A principal member tells a staff member to change a document and suggests there may be negative employment consequences if they do not. The conduct relates to clause 13(1) of the Code of Conduct, which prohibits directing local government employees or using threats or rewards, and clause 12, which prohibits unauthorised involvement in administration. Because the complaint is about a principal member and the alleged conduct involves intimidation, which may fall within section 119(b), it should be made to the secretariat (Act, s 132B). Council-level resolution would not be appropriate.

A.3 Misleading and harmful social media post.

A member publishes a post with false statements about a staff member without reasonable evidence and repeats them after being corrected. The conduct relates to the following clauses of the Code of Conduct - clause 6 (social media and publication of factually incorrect material), clause 4(f)–(h) (offensive or derogatory language, disparagement of staff, suggestion of dishonest motives without reasonable evidence) and clause 13(3) (offensive references to local government employees at council events). Depending on repetition, harm to the named employee and impact on workplace safety, the conduct may amount to serious misconduct under section 119(b) (verbal abuse) and require referral via section 132J(3)(e) of the Act.

A.4 Undeclared interest in a matter.

A member takes part in a decision where they have a personal interest, does not disclose it, and tries to influence other members. The conduct may engage both the Code and the conflict-of-interest provisions of the Act. Clause 3(d) of the Code of Conduct requires members to identify and appropriately manage any conflict of interest.

A.5 Fraudulent claim for expenses.

A member makes a false claim for reimbursement. Fraud is serious misconduct (Act, s 119), and if it is also a criminal offence, it may be gross misconduct under section 119. The complaint should be lodged with the secretariat under section 132B and is likely to be referred to a Code of Conduct panel under section 132M. A Code of Conduct Panel may impose a monetary penalty (Act, s 132N(d)), suspend the member (Act, s 132N(f)), or recommend Ministerial action (Act, s 132N(h) and s 132U). The matter may also be referred to police (Act, s 132G(1)(g)). This power is exercised by an Independent Assessor under section 132J(3)(c), or by a Code of Conduct Panel under section 132N(c). If an Independent Assessor refers the matter to police, the secretariat must be notified (Act, s 132J(4)).

Part B - Interstate examples

The following cases are drawn from other Australian states and territories. They are not binding in the Northern Territory, but they show how similar conduct has been handled and serve as a useful practical reference.

Meeting conduct

Olsen (Cessnock City Council, NSW)

(see [Statement of Reasons and Order for suspension – Councillor Ian Olsen – Cessnock City Council](#)).

Facts: A councillor engaged in disruptive conduct particularly by:

- 1) Committing acts of disorder through conduct that causes, comprises or involves intimidation or verbal abuse;
- 2) Disclosing information regarding a conduct complaint, which is to be considered in a closed session to protect both the complaint and the subject of the complaint;
- 3) Preventing the proper or effective functioning of the Council; and
- 4) Engaging in disorder by insulting and disparaging the General Manager.

Decision: The conduct panel upheld a three-month suspension from civic office. Before the sanction was imposed, the councillor was given notice of the proposed penalty and an opportunity to respond. The panel emphasised that disruptive behaviour at meetings directly undermines a council's ability to function effectively and that such conduct requires meaningful consequences.

Social media and respectful conduct

Three cases illustrate how repeated offensive online posts have been dealt with in other jurisdictions.

Thaler v Secretary, Department of Planning, Housing and Infrastructure (Snowy Monaro Regional Council, NSW) (NSW Civil and Administrative Tribunal, 2025).

See [Statement of Reasons and Order for suspension for three months under section 4401 of the Act – Councillor Andrew Thaler Snowy Monaro Regional Council](#)

Facts: The Councillor made several derogatory comments relating to current and former politicians on Facebook, that were offensive under specific provisions of the Code of Conduct. The comments made relate to current and former politicians, particularly targeting their physical appearance, sexual orientation, gender identity or contained sexually suggestive remarks. The councillor had a prior disciplinary history and showed little insight into his behaviour.

Decision: The Secretary of the Department of Planning, Housing and Infrastructure suspended the councillor from civic office for three months and required him to issue a public apology addressed to the individuals targeted. On appeal, the NSW Civil and Administrative Tribunal confirmed those orders, rejecting the councillor's argument that the Secretary's decision was invalid.

Lund and Ferguson (Victoria)

See [Lund-and-Ferguson-IAP-2023-8-Decision.pdf](#)

Facts: Councillor Melissa Ferguson breached the Latrobe City Councillor's Code of Conduct by tweeting and retweeting various tweets that were factually incorrect and offensive to the LGBTQIA+ community, which failed to treat them with dignity, fairness, courtesy and respect.

Decision: The Victorian conduct panel made a finding of misconduct against Councillor Ferguson and compelled the respondent to provide a verbal and written apology to the complainant. The Councillor has also been further directed to attend training to increase her understanding of diversity, equity and inclusion with reference to the LGBTQIA+ community. She has also been directed to attend training enhancing her understanding of appropriate use of social media, with respect to the expectations when she is acting as a councillor representing community interests.

Elliott and Posselt (Tasmania)

See [Determination-Report-Hobart-City-Council-Councillor-Louise-Elliott-against-Councillor-Ryan-Posselt.pdf](#)

Facts: Councillor Ryan Posselt was found to have breached the Code of Conduct by insinuating that a fellow councillor was a clown in the context of an unusually full public council meeting. He also disrespected her through body language that ridiculed her and subsequently made social media posts which were intended to be disrespectful.

Decision: The Councillor was sanctioned for his conduct and subsequent posts. The Code of Conduct panel held there were several mitigating circumstances they considered when deciding on the appropriate action, including that the meeting related to a divisive issue attracting significant public interest and the atmosphere surrounding the meeting was tense. A softer penalty was ordered as the councillor was highly apologetic and modified his behaviour at subsequent council meetings.

Treatment of staff

A Victorian Panel made a finding of "serious misconduct" against a Wyndham City Councillor, Jasmine Hill, based on allegations made against her by two staff members. The panel imposed a four-month suspension relating to multiple alleged incidents of screaming and shouting between 2021 and 2022 for issues that could be easily resolved. Councillor Hill had also showed little remorse for her conduct.

Conflicts of interest

NSW Pecuniary Interest Tribunal decision

(See [LGPIDT 1-1994 - Mackenzie - Port Stephens Council - Statement of Decision](#)).

Facts: A councillor failed to disclose a pecuniary interest as required under the applicable rules, in contravention of the council's disclosure requirements.

Decision: The Tribunal found a breach of the disclosure rules, reprimanded the councillor, and considered (but ultimately did not impose) a suspension from civic office. The Tribunal emphasised that the disclosure requirements exist to promote honesty, integrity and public confidence in local government decision-making.

Kimberley (Queensland Councillor Conduct Tribunal)

(https://www.statedevelopment.qld.gov.au/_data/assets/pdf_file/0020/70580/former-councillor-wayne-kimberley-cassowary-coast-regional-council.pdf).

Facts: The Tribunal found that the Councillor had a conflict of interest because the continuation of vexatious litigant proceedings would have had the effect of terminating separate QCAT litigation against him personally. That protective effect meant he could not bring a clear and impartial mind to the Council decision, as his personal interest conflicted with the public interest in unbiased and transparent governance. The conflict was aggravated by his failure to disclose it, seek advice, or take any steps to manage it before moving and voting on the recommendation.

Decision: The Tribunal ordered that Councillor Kimberley be reprimanded and pay a \$500 penalty to the local government within 60 days. In imposing the sanction, the Tribunal emphasised that this was his second finding of misconduct in similar circumstances, notwithstanding additional training on conflict-of-interest obligations. Although the Tribunal found the conduct to be reckless rather than knowing, it considered a higher penalty was required to underscore the seriousness of the breach.

The Tribunal found misconduct. It described the conflict of interest provisions as fundamental to transparent decision-making in local government and emphasised that councillors bear a positive obligation to identify and declare perceived conflicts – not only actual ones.

Modica (Victorian Code of Conduct Panel)

See [CMI & Modica \(CCP 2022-4\) - Councillor Conduct Panel Determination and Statement of Reasons for Decision \(Temp\) \(14 February\)](#).

Facts: Councillor Modica was a Victorian councillor who was found to have breached the Code of Conduct after failing to declare a conflict of interest on three occasions in 2021 relating to a planning application for the use of land for rural industry in the municipality. The general conflicts arose due to Cr Modica's sister living opposite the property and operated without a permit a similar business to the subject of the planning application.

Decision: The panel suspended Councillor Modica from civic office for two months. The three separate failures to declare, all in relation to the same matter, were treated as a significant aggravating factor.

Procedural fairness and bias in reviews

Kelly v Sherlock [2025] TASCAT 231

Facts: A complainant lodged a Code of Conduct complaint and actively participated in the proceedings before the panel, effectively taking on the role of the prosecuting party. After the panel reached its decision, a question arose as to who could participate as a “party” in a subsequent review brought on the grounds that the process had been procedurally unfair (in breach of natural justice).

Decision: The Tribunal determined the complainant is a party to the review. The Tribunal considered whether a complainant in a local government Code of Conduct matter is a party to an application for review under s 28ZP of the Local Government Act 1993. The review was limited to whether the Panel failed to comply with natural justice. The Tribunal examined the statutory framework, the nature of the review jurisdiction under the Tasmanian Civil and Administrative Tribunal Act 2020, and the complainant's role in the original proceedings. It found that the complainant acted as the prosecuting party before the Panel and had an interest in the outcome. Applying s 95 of the TASCAT Act, the Tribunal held that the complainant was a party to the dispute and therefore a party to the review. It directed that a directions hearing be listed.

Miller v Local Government Code of Conduct Panel

See [Determination-Report-5-December-2024-Southern-Midlands-Council-Mr-Rick-Wilton-against-Councillor-Fraser-Miller.PDF](#)

Facts: A party challenged a panel decision on the basis that a panel member ought to have stepped aside because of a prior professional connection with another participant in the proceedings. The challenge was brought based on apprehended (or apparent) bias – the argument being that the prior connection meant the panel member might not have been impartial.

Decision: The court rejected the challenge. It applied the “fair-minded observer test laid down in *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337; [2000] HCA 63. Under that test, a decision-maker is disqualified only if a fair-minded, reasonable member of the public – knowing all the relevant facts – might think there was a real possibility the decision-maker could not bring an impartial mind to the matter. The court found that a vague, non-specific prior professional connection did not meet that threshold. The lesson is not that prior associations are always irrelevant. Rather, it is that any potential conflict and recusal issue, however it arises should be identified promptly, considered openly and recorded in writing for all parties involved.