

# Code of Conduct Behaviour Complaints Management Policy

<b>Legislation / local law requirements</b>	<i>Local Government (Model Code of Conduct) Regulations Local Government (Local Government Inspector) Regulations 2025 Local Government (Administration) Regulations 1996 Meeting Procedures Local Law</i>
<b>Relevant delegations</b>	Delegation 2.1.2 – Behaviour Complaints Committee Delegation - 2.2.31 Appointing External Complaints Office
<b>Related policies, procedures and supporting documentation</b>	Code of Conduct for Council Members, Committee Members and Candidates Purchasing Policy

## PRELIMINARY

### INTRODUCTION

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the City’s [Code of Conduct Elected Members, Committee Members and Candidates](#) (Nominated Members Code).

A Complaint must be made and dealt with in accordance with this policy.

From 1 January 2026, this Policy operates subject to the Inspector-led behavioural complaints framework established under the *Local Government (Model Code of Conduct) Regulations 2021* as amended and the *Local Government (Local Government Inspector) Regulations 2025*. Certain complaints must be referred to, or dealt with in accordance with directions from, the Local Government Inspector.

### PURPOSE

To establish, in accordance with Schedule 1 Clauses 11 to 15 of the *Local Government (Model Code of Conduct) Regulations 2021* and the Nominated Members Code, the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Code including any required referral or escalation pathways under the Act and Regulations.

### OBJECTIVE

To give effect to the City of Vincent’s commitment to an effective, transparent, fair, and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

### SCOPE

This Policy applies to complaints made in accordance with Clause 11 of the City of Vincent Nominated Members Code.

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This Policy applies to Council Members, Committee Members, Candidates, and any person who submits a complaint in accordance with this Policy.

Complaints that are deemed outside of the scope of this policy are:

- dissatisfaction with a Council or committee member's lawfully made decisions;
- dissatisfaction with a Council or Committee member's performance of his or her role;
- complaints alleging a conduct breach or specified breach under Part 8A of the Act (See Statutory referral to the Local Government Inspector);
- complaints that have been referred to, or taken over by, the Local Government Inspector;
- corruption allegations; or
- personal disagreements.

Complaints relating to Division 4 – Rules of Conduct are not dealt with under this Policy and are managed under the Inspector-led complaints framework established under the *Local Government Act 1995*.

## DEFINITIONS

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

**Behaviour Complaints Committee** means the Committee established by the Council in accordance with s.5.8 of the Act and authorised by Council under clause 14B of the Nominated Members Code for the purpose of dealing with Complaints. The role of the Behaviour Complaints Committee is outlined in Part 2.3 of this Policy.

**Behaviour Complaints Officer** means a person authorised in writing (*by Council resolution or by the CEO exercising delegated authority*) under clause 11(3) of the Nominated Members Code to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.

**Breach** means a breach of Division 3 of the City's Nominated Members Code, also referred to as a behavioural breach.

**Candidate** means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act but does not include a Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

**Candidate Complaint** means a Complaint alleging a breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

**Committee** means a committee of Council, established in accordance with s.5.8 of the Act.

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**Committee Member** means a Council Member, employee of the City of Vincent or other person who has been appointed by the Council to be a member of a Committee, in accordance with s.5.10(1) of the Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

**Complaint** means a complaint submitted under Clause 11 of the Nominated Members Code.

**Complainant** means a person who has submitted a Complaint in accordance with this Policy.

**Complaint Assessor** means a person appointed by the Behaviour Complaints Officer in accordance with Part 2.2 and Part 3.8 of this Policy.

**Complaint Documents** means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

**Complaint Form** means the form approved under clause 11(2)(a) of the Nominated Members Code (by Council resolution or by the CEO exercising delegated authority).

**Council** means the Council of the City of Vincent.

**Council or Committee Meeting** means a formal meeting of the Council or a Committee that is called and convened in accordance with the Act. It does not include informal meetings, such as workshops or briefings.

**Council Member** means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.

**Finding** means a finding made in accordance with clause 12(1) of the Nominated Members Code as to whether the alleged Breach has or has not occurred.

**Nominated Members Code** means the City of Vincent Code of Conduct for Council Members, Committee Members and Candidates.

**Plan** means a Plan that may be prepared and implemented under clause 12(4)(b) of the Nominated Members Code, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a breach has occurred.

**Register** means the record of prescribed information maintained by the CEO in accordance with section 5.96C of the Act.

**Respondent** means the Council Member, Committee Member or Candidate to whom a Complaint relates.

**Response Documents** means the response provided by the Respondent to the Complaint and includes any supporting information or evidence that is supplied.

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## POLICY PROVISIONS

### 1. Principles

#### 1.1 Procedural fairness

The principles of procedural fairness, or natural justice, apply when dealing with a Complaint under this Policy.

The Respondent will be provided with:

- notice of the complaint and the alleged breach
- access to the relevant material considered in the decision-making process (including evidence relied upon)
- a reasonable opportunity to be heard, including an opportunity to respond to any draft findings before:
  - any findings are made, or
  - a plan implemented; and
  - written reasons for any decision under this Policy.

The decision maker must be objective and impartial, with an absence of bias or the perception of bias; and any findings made must be based on proper and genuine consideration of the evidence.

#### 1.2 Consistency

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each Complaint considered and determined on its merits, similar circumstances will result in similar decisions.

#### 1.3 Confidentiality

All persons involved in a Complaint under this Policy must maintain confidentiality in order to protect both the Complainant and Respondent.

Complaint information must not be disclosed except as permitted by law.

Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely and must not disclose or inappropriately use this information.

Complainants will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the progress of their Complaint.

#### 1.4 Accessibility

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The City of Vincent will ensure that information on how to make a complaint, including this Policy, is available at the City of Vincent's Administration Building and on the City of Vincent's website. The City of Vincent will make information available in alternative formats if requested.

Any person wishing to make a complaint may contact the Behaviour Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

## 2. Roles

### 2.1 Behaviour Complaints Officer

The Behaviour Complaints Officer is authorised in accordance with clause 11(3) of the Nominated Members Code to accept complaints and withdrawal of complaints.

The Behaviour Complaints Officer is not an advocate for the complainant or the respondent. The Behaviour Complaints Officer provides procedural information and assistance to both Complainant and Respondent.

The Behaviour Complaints Officer will liaise with and provide administrative support to a Complaint Assessor appointed under this Policy.

The Behaviour Complaints Officer will liaise with the Local Government to facilitate the calling and convening of Council or Behaviour Complaints Committee meetings if required.

In undertaking their functions, the Behaviour Complaints Officer will apply the Principles of this Policy.

Where a Complaint must be referred to, or is taken over by, the Local Government Inspector, the Behaviour Complaints Officer will facilitate the referral and ensure the Complaint is not progressed locally except as directed by the Inspector

### 2.2 Complaint Assessor

The Complaint Assessor is appointed by the Behaviour Complaints Officer in accordance with Part 3.8 of this Policy.

The Complaint Assessor is an impartial third party who will undertake the functions specified in this Policy. In undertaking their functions, the Complaint Assessor will apply the Principles of this Policy.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to manage the administrative requirements of dealing with the Complaint in accordance with this Policy.

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## 2.3 Behaviour Complaints Committee

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the Act and authorised by Council under clause 14B of the Nominated Members Code for the purpose of dealing with Complaints.

The Behaviour Complaints Committee is a Committee of Council Members only. The membership and purpose of the Behaviour Complaints Committee is outlined in the Behaviour Complaints Committee Terms of Reference.

## 3. Procedure

### 3.1 Making a complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Nominated Members Code (clause 11(1)).

A Complaint must be made within one (1) month after the alleged breach (clause 11(2)(c) of the Nominated Members Code).

A Complaint must be made by completing the [Behaviour Complaint Form](#) in full and providing the completed form to the Behaviour Complaints Officer.

A Complaint is required to include:

- the name and contact details of the Complainant (anonymous complaints cannot be accepted);
- The name of the Respondent;
- How the behaviour constitutes a breach.

Where a Complaint Form omits required details, the Behaviour Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

Where a Complaint is made more than 1 month after the alleged breach, the Behaviour Complaints Officer will give the Complainant written notice that the Complaint cannot be made (clause 11(2)(c) of the Nominated Members Code).

### 3.2 Candidate Complaints

A Complaint in relation to a Candidate must be made in accordance with 3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.

Within 7 days after receiving a Candidate Complaint, the Behaviour Complaints Officer will provide written notice:

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- to the Complainant confirming receipt, and advising of the procedure for candidate complaints; and
- to the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.

No action will be taken until the results of the election are declared by the Returning Officer. If the respondent is elected, then the complaint will be dealt with in accordance with this Policy. Timeframes that would otherwise commence on the receipt of a Complaint will be taken to commence on the election date.

If the Respondent is not elected, the Behaviour Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with (clause 15(1) of the Nominated Members Code).

If a Candidate Complaint is received as a behavioural complaint but is assessed as alleging a conduct breach or specified breach in substance or must otherwise be referred to the Local Government Inspector under the Act or Regulations, it is not dealt with under this Policy.

### 3.3 Withdrawing a Complaint

A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint (clause 14 of the Nominated Members Code).

A Complainant may withdraw a Complaint by advising the Behaviour Complaints Officer in writing that they wish to do so.

After receiving a written withdrawal of the Complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

The withdrawal and the steps taken will be recorded in accordance with the Act.

### 3.4 Notice to Complainant

Within 7 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Complainant that:

- confirms receipt of the Complaint;
- outlines the process that will be followed and possible outcomes;
- explains the statutory confidentiality requirements that apply to the complaint;
- includes a copy of this Policy; and
- if necessary, seeks clarifications or additional information.

If the Complaint Form indicates that the Complainant agrees to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will advise the Complainant of the process in accordance with Part 3.6 of this Policy.

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## 3.5 Notice to Respondent

Within 14 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Respondent that:

- advises that a Complaint has been made in accordance with the Nominated Members Code and this Policy;
- includes a copy of the Complaint Documents;
- outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
- includes a copy of this Policy;
- explains the statutory confidentiality requirements that apply to the Complaint; and
- if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

If the Complainant has agreed to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 3.6 of this Policy.

## 3.6 Alternative Dispute Resolution

The City of Vincent recognises that Alternative Dispute Resolution may support both parties reach a mutually satisfactory outcome that resolves the issues giving rise to the Complaint. Alternative Dispute Resolution requires the consent of both parties to the Complaint and may not be appropriate in all circumstances.

To commence the process, the Behaviour Complaints Officer may , as a first course of action upon receiving a Complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution.

Alternative Dispute Resolution may occur only where voluntary and must not delay formal assessment or a determination required under the Nominated Members Code.

The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the Complaint, in accordance with Part 3.3 of this Policy. For example, an offer by a Respondent to issue a voluntary apology in response to a Complaint, even in the absence of a request from the Complainant, qualifies for consideration as Alternative Dispute Resolution.

If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of a third party who is providing assistance to the Local Government, such as a facilitator or mediator.

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Where mutually agreed, parties to the complaint may have a support person present during the Alternative Dispute Resolution process.

If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the Complaint, the Behaviour Complaints Officer will resume the formal process required under this Policy.

### 3.7 Order of Complaints

Complaints will normally be dealt with in the order in which they are received.

If more than one Complaint is received that relates to the same alleged behaviour, the Behaviour Complaints Officer may decide to progress those Complaints concurrently.

### 3.8 Appointment of Complaints Assessor

If Alternative Dispute Resolution is not commenced, is terminated or does not achieve an agreed outcome resulting in the withdrawal of the Complaint, the Behaviour Complaints Officer will appoint a suitably qualified and experienced Complaint Assessor, in accordance with the City of Vincent's [Purchasing Policy](#).

The Behaviour Complaints Officer will endeavour to appoint a Complaint Assessor within a reasonable period. The Behaviour Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

### 3.9 Search of Local Government Records

The Complaint Assessor may request the Behaviour Complaints Officer to search for any relevant records in the City of Vincent's Record Management System.

In particular, if the behaviour is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Officer will be requested to identify any Local Government records that provide evidence that may support a decision as to whether:

- the behaviour occurred at a Council or Committee Meeting,
- the behaviour was dealt with by the person presiding at the meeting, and/or
- the Respondent has taken remedial action in accordance with the City of Vincent [Meeting Procedures Local Law 2008](#); and
- the Respondent has been found on at least two previous occasions on or after 1 January 2026 to have committed a breach.

The Complaints Assessor must provide the Respondent with a copy of any records that are identified. In addition, where a clarification or additional information has been sought from the Complainant by either the Behaviour Complaints Officer or the Complaint Assessor, copies must also be provided to the Respondent.

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## 3.10 Assessment of the Complaint

The Complaint Assessor will undertake an assessment of the Complaint in accordance with:

- any requirement to refer a complaint, or comply with directions of, the Local Government Inspector; and
- the process outlined in the Notices given under Part 3.4 and Part 3.5 of this Policy.

The Complaint Assessor must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions or drafting the Complaint Report or recommendations.

## 3.11 Complaint Report

The Complaint Assessor will prepare a Complaint Report that will:

- outline the process followed, including how the Respondent was provided with an opportunity to be heard and respond to draft findings;
- include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments; and
- include recommendations on each decision that may be made by the Behaviour Complaints Committee; and
- include reasons for each recommendation, with reference to Part 4 of this Policy.

If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause 12(4)(b) of the Nominated Members Code and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to include the Complaint Report in the Agenda for a meeting of the Behaviour Complaints Committee. The Behaviour Complaints Officer will be responsible for preparation of an Officer Report with the Complaint Report provided as a confidential attachment. The recommendations of the Complaint Report will be provided as the Officer Recommendations.

## 3.12 Behaviour Complaints Committee Meeting

The Agenda will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

The Behaviour Complaints Committee will consider the Complaint Report and attachments and give due regard to the recommendations.

In accordance with Regulation 11(d)(a) of the *Local Government (Administration) Regulations 1996*, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

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If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Committee will determine whether or not to dismiss the Complaint in accordance with Clause 13 of the Nominated Members Code and Part 4.2 of this Policy.

If the Behaviour Complaints Committee dismisses a Complaint, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause 13(2) of the Nominated Members Code. This concludes the process for this Complaint.

If the Complaint is not dismissed, the Behaviour Complaints Committee will consider the Complaint and make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause 12 of the Nominated Members Code and Part 4.3 of this Policy.

If the Behaviour Complaints Committee finds that the alleged breach **did not** occur, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the Finding and the reasons for the Finding in accordance with clause 12(7)(a) of the Nominated Members Code. This concludes the process for this Complaint.

If the Behaviour Complaints Committee finds that the alleged breach **did** occur, the Committee will decide whether to take no further action in accordance with clause 12(4)(a) of the Nominated Members Code or prepare a plan to address the behaviour in accordance with clause 12(4)(b) of the Nominated Members Code and Part 4.4 of this Policy.

If the Behaviour Complaints Committee decides to take no further action, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause 12(7)(a) of the Nominated Members Code. This concludes the process for this Complaint.

If the Behaviour Complaints Committee decides to prepare a Plan, the Committee will first consult with the Respondent in accordance with clause 12(5) \* of the Nominated Members Code. The Behaviour Complaints Committee will consider any submissions made by the Respondent before preparing and implementing a Plan.

### 3.13 Compliance with Plan Requirement

The Behaviour Complaints Officer will monitor the actions in timeframes set out in a Plan.

Failure to comply with a requirement included in a Plan is a breach of clause 23 of the Nominated Members Code and must be managed in accordance with the Act, Regulations and the statutory complaints and standards framework (Part 8A) as applicable.

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The Behaviour Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

## 3.14 Record of information about conduct

The CEO must maintain and publish an up-to-date record of information about conduct in accordance with section 5.96C of the Act. The Behaviour Complaints Officer is authorised to maintain the record on the CEO's behalf.

## 4. **Decision Making**

### 4.1 Objective and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in Part 1 of this Policy.

### 4.2 Dismissal

The Behaviour Complaints Committee must dismiss a Complaint in accordance with clause 13(1)(a) and (b) of the Nominated Members Code 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 Respondent has taken remedial action in accordance with the City of Vincent Meeting Procedures Local Law 2008.

### 4.3 Finding

A Finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur (clause 12(3) of the Nominated Members Code).

This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 3 of the Nominated Members Code.

### 4.4 Action

In deciding whether to take no further action, or prepare and implement a Plan, the Complaints Committee may consider:

- the nature and seriousness of the breach(es);
- the Respondent's submission in relation to the contravention;
- whether the Respondent has breached the Nominated Members Code knowingly or carelessly;
- whether the Respondent has breached the Nominated Members Code on previous occasions;

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- likelihood or not of the Respondent committing further breaches of the Nominated Members Code;
- personal circumstances at the time of conduct;
- need to protect the public through general deterrence and maintain public confidence in Local Government; and
- any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

#### 4.5 Plan Requirements

The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following:

- engage in mediation;
- undertake counselling;
- undertake training;
- take other action the Behaviour Complaints Committee considers appropriate (e.g., an apology).

The Proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Nominated Members Code.

The Proposed Plan may also outline:

- the actions to be taken to address the behaviour(s);
- who is responsible for the actions;
- any assistance the Local Government will provide to assist achieve the intent of the Plan; and
- a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

OFFICE USE ONLY	
Responsible Officer	Executive Manager Corporate Strategy and Governance
Initial Council Adoption	05/04/2022
Previous Title	N/A
Reviewed / Amended	03/03/2026
Next Review Date	03/03/2030