

Code of Conduct complaint form

Pursuant to Part 7.4 of the *Local Government Act 2019* and regulation 98 of the *Local Government (General) Regulations 2021*

When to use this form

This form is for anyone who believes a council elected member has breached the Local Government Code of Conduct. Any person can report an alleged breach of the Local Government Code of Conduct. It can be used by members of the public, council staff or other councillors.

Complaints of breach of the Code of Conduct are made under Part 7.4 of the *Local Government Act 2019* (the Act).

Before you start

- Your complaint must be made within 3 months of the alleged breach of the Code of Conduct.
- Your complaint must be in this approved form and include a statutory declaration by you.
Note: A statutory declaration is a written statement of fact that you promise to tell the truth.
- It is recommended you read the Code of Conduct so you can identify which clauses may have been breached and refer to them in the complaint (see Appendix A - Code of Conduct).
- In addition to the complaint, it is recommended that you provide specific facts and supporting evidence (e.g., meeting records, correspondence or witness statements).
- If possible, consider informal resolution first, such as raising the matter with the council Chief Executive Officer (CEO) or through mediation.
Note: Informal resolution is not compulsory. You may still decide to proceed with this complaint at any time.

Completing and lodging the form

1. Under section 120 (1) of the Act, complaints of breach of the Code of Conduct by an elected member are to be submitted to the CEO of the relevant council.
Note: Check your council's website for the contact details.
2. Ensure that when you lodge your complaint you include all your attachments (statutory declaration and supporting evidence (if any)).
3. The statutory declaration must include information verifying the allegations of the breach or breaches of the Code of Conduct.
4. If additional pages or documents are to be attached to the complaint, you should number and identify each extra page. The same applies if you attach additional pages or documents to your statutory declaration. You must sign and date each page of your statutory declaration, ensuring each page is also signed and dated by a witness aged 18 years or older.

5. If you have obtained a witness statement by someone else, a separate statutory declaration must be signed and provided from that witness. Once again, each page of the statutory declaration must be signed and dated, and a witness aged 18 years or older must witness each page.
Note: there is no limit on the number of witness statements you may attach to your complaint.
6. It is recommended that you request acknowledgement by council of receipt of your complaint.
Note: The receipt shows that you have made a complaint, and that you filed it within 3 months of the alleged breach of the Code of Conduct. Keep this receipt for your records.
7. Remember that elected members are public officers, and lodgement of a complaint under the Act does not relieve you from any legal obligations to make other reports (if relevant), including mandatory reporting requirements under other laws.
8. The lodgement of a potentially vexatious or frivolous complaint **by an elected member** may constitute a breach of the Code of Conduct.

What happens next

After you complete this form, attach the statutory declaration and other evidence and lodge it with the relevant council CEO:

1. The CEO will check that your complaint meets legal requirements and falls within the Code of Conduct framework.
2. Council CEO, as soon as practicable, refers the complaint to the council.
3. The council may:
 - 3.1. Handle the complaint within the council:
 - 3.1.1. The council will review and decide:
 - There was no breach; or
 - There was a breach and take no action; or
 - There was a breach and do any or combination of: issue a reprimand; recommend training, counselling, or mediation.
 - 3.2. If requested by the complainant or the respondent, refer the complaint to a mediator or other third party before the council has taken an action:
 - 3.2.1. Council can accept or reject the request.
 - 3.2.2. If accepted, the third party must consider the complaint and then refer back to council.
 - 3.2.3. The council then must take into consideration any advice of the third party and make a decision in accordance with section 3.1.1 above.
 - 3.3. If requested by the complainant (when a council member) or respondent, refer the complaint to the prescribed corporation (Local Government Association of the Northern Territory (LGANT)):
 - 3.3.1. The prescribed corporation establishes an independent panel of three nominees (including one from the 'agency', the relevant Department responsible for local government) to make a decision in accordance with section 3.1.1 above. The panel can decide any other recommendation they consider appropriate.
 - 3.3.2. The prescribed corporation panel may summarily reject a complaint referral or application without considering it if the panel is satisfied that:
 - a) the complaint would more appropriately form the subject matter of a criminal charge; or
 - b) the complaint is frivolous, vexatious or lacking in substance.

- 3.3.3. The prescribed corporation panel must give a decision notice to the complainant and respondent within 90 days of receipt of the referral or application of the complaint.
4. The council or council panel must give a decision notice to the complainant and respondent within 90 days of receipt of the complaint.
 5. A complainant or respondent may, within 28 days of receiving the decision notice, apply to the prescribed corporation for consideration of the complaint.

Privacy and information notice

1. Councils handle all personal information under the *Information Act 2002*.
2. The prescribed corporation (LGANT) applies the same privacy principles, as far as practicable.
3. All personal information collected in this form is used only for assessing and determining the complaint and for meeting statutory obligations.

Key contacts

- Your local council CEO – first point of contact for lodging or checking a complaint. Check their web site for contact details.
- Prescribed Corporation (LGANT): info@lgant.asn.au or (08) 8944 9688 (for referred matters only).

<p>1. Your name:</p> <p>You are the complainant.</p>	
<p>2. Name of the council member alleged to have breached the Code of Conduct:</p> <p>This council member is the respondent.</p>	
<p>3. Name of the relevant Council:</p> <p>Relevant Council means the local government council in which the respondent is a council member.</p>	
<p>4. Date(s) of alleged incident(s) (must be within 3 months of lodging this complaint)</p>	
<p>5. List the clause number(s) of the Code of Conduct that you allege the respondent has breached:</p>	
<p>6. Do you request that the Council refer your complaint to a third party (e.g. a mediator) for advice before the Council decides your complaint?</p> <p>Note: This is only a request. It is a Council decision whether to refer your complaint to a third party.</p>	<p>Please select one:</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>7. Are you a current elected council member of the relevant Council?</p>	<p>Please select one:</p> <p><input type="checkbox"/> Yes (proceed to Question 8)</p> <p><input type="checkbox"/> No (proceed to Question 9)</p>
<p>Only answer Question 8 if you are a current elected council member of the relevant Council</p>	
<p>8. Do you want your complaint referred to the prescribed corporation (LGANT) for a decision, rather than the Council or another third party (e.g. a mediator)?</p> <p>If a council member of the relevant Council selects 'Yes', the complaint will be referred to the prescribed corporation for a decision.</p>	<p>Please select one:</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

Please proceed to the next page.

Your signature Date:

Signature of witness Date:

9. Details of the respondent's alleged breach (or breaches) of the Code of Conduct:

Detail by completing the below table for each clause of the Code of Conduct that you allege has been breached. Support your claim of each alleged breach with details of what happened.

Code of Conduct clause See Appendix below.	Date of alleged breach	Details of what happened (you may refer to paragraph numbers of your statutory declaration in this column).

To add more cells to the above table, right click with your mouse and select 'Insert' > 'Insert Rows Below'.

Example of how to fill in the above table

Code of Conduct clause See Appendix below.	Date of alleged breach	Details of what happened
3 - Courtesy	28 July 2022	Paragraph 10 of my statutory declaration dated XXXXX.
3 - Courtesy	28 July 2022	Councillor Smith yelled at me during the Council meeting, calling me a "stupid idiot". Everybody at the meeting heard this.
7 - Conflict of interest	28 July 2022	At the Council meeting, there was discussion about tenders for a roadworks contract with the Council. Councillor Smith's wife is an owner of one of the companies that put in a tender, XYZ Engineering, but Councillor Smith did not declare a conflict of interest.

Your signature

Date:

Signature of witness

Date:

THE NORTHERN TERRITORY OF AUSTRALIA
STATUTORY DECLARATION

I, _____
(Your full name and address)

solemnly and sincerely declare _____
that *(Name of the respondent council member)*

has committed a breach (or breaches) of the Code of Conduct as described in the completed *Breach of Code of Conduct complaint form* and attachments.

I further solemnly and sincerely declare that all of the information attached and provided in relation to this statutory declaration is true.

This declaration is true and I know it is an offence to make a statutory declaration knowing it is false in a material particular.

Declared at _____ the _____ day of _____ 20____
(Place you are making the declaration) *(Date)* *(Month)* *(Year)*

Signed: _____
(Your signature)

Witnessed by: _____
(Signature of the person before whom the declaration is made)

(Full name of witness)

(Contact address or phone number of witness)

NOTES:

- 1. This declaration may be witnessed by any person who is at least 18 years of age.**
- 2. This written statutory declaration must comply with Part 4 of the *Oaths, Affidavits and Declarations Act 2010*.**
- 3. Making a declaration knowing it is false in a material particular is an offence for which you may be fined or imprisoned.**

Appendix A – Code of Conduct

1 **Honesty and integrity**

A member must act honestly and with integrity in performing official functions.

2 **Care and diligence**

A member must act with reasonable care and diligence in performing official functions.

3 **Courtesy**

A member must act with courtesy towards other members, council staff, electors and members of the public.

4 **Prohibition on bullying**

A member must not bully another person in the course of performing official functions.

5 **Conduct towards council staff**

A member must not direct, reprimand, or interfere in the management of, council staff.

6 **Respect for cultural diversity and culture**

6.1 A member must respect cultural diversity and must not therefore discriminate against others, or the opinions of others, on the ground of their cultural background.

6.2 A member must act with respect for cultural beliefs and practices in relation to other members, council staff, electors and members of the public.

7 **Conflict of interest**

7.1 A member must avoid any conflict of interest, whether actual or perceived, when undertaking official functions and responsibilities.

7.2 If a conflict of interest exists, the member must comply with any statutory obligations of disclosure.

8 **Respect for confidences**

8.1 A member must respect the confidentiality of information obtained in confidence in the member's official capacity.

8.2 A member must not make improper use of confidential information obtained in an official capacity to gain a private benefit or to cause harm to another.

9 **Gifts**

9.1 A member must not solicit, encourage or accept gifts or private benefits from any person

who might have an interest in obtaining a benefit from the council.

- 9.2 A member must not accept a gift from a person that is given in relation to the person's interest in obtaining a benefit from the council.

10 Accountability

A member must be prepared at all times to account for the member's performance as a member and the member's use of council resources.

11 Interests of municipality, region or shire to be paramount

- 11.1 A member must act in what the member genuinely believes to be the best interests of the municipality, region or shire.

- 11.2 In particular, a member must seek to ensure that the member's decisions and actions are based on an honest, reasonable and properly informed judgment about what best advances the best interests of the municipality, region or shire.

12 Training

A member must undertake relevant training in good faith.