

CL002 – Member Disciplinary Policy

1. POLICY CERTIFICATION

| | |
|-----------------|-------------------------------------|
| Policy title: | Members' Disciplinary Policy |
| Policy number: | CL002 |
| Category: | Council Policy |
| Classification: | Council |
| Status: | Approved |

2. PURPOSE

This policy aims to protect and enhance the integrity and reputation of Roper Gulf Regional Council (RGRC) by maintaining appropriate standards of conduct for Councillors, Local Authority Members and Council Committee Members.

2. SCOPE

This policy applies to all Roper Gulf Regional Councillors, Local Authority Members and Council Committee Members.

3. POLICY STATEMENT

When Members take up their position they are bound by the Roper Gulf Regional Council Code of Conduct that is authorised under sections 77 & 78 of the *Local Government Act 2008*. The Local Government Act outlines the following lodging processes for:

- a complaint against a Member for breaching the Code of Conduct (sections 79 – 83) to the Agency (Department of Local Government and Community Services)
- a complaint against a Member to the Roper Gulf Regional Council.

This policy should be read in conjunction with the RGRC Members Code of Conduct (CL001) and the RGRC Complaints Policy (ADM003).

5. DEFINITIONS

| | |
|-------------------------------|--|
| The Agency | Department of Local Government and Community Services |
| Complaint | Any expression of dissatisfaction about the behaviour of a Member. A complaint may be made verbally, but it must be recorded in writing to be processed as a formal complaint. There is a form for recording complaints attached to the Roper Gulf Regional Complaints Policy, but it is not compulsory to use this form to record a complaint– a simple letter covering the same information is acceptable. |
| Disciplinary Committee | A committee established by the Minister for Local Government to investigate complaints about Code of Conduct breaches by Members (Local Government Act section 80). |
| Member | Member means, according to context, a member of a Council, a Local Authority or a Council Committee (Local Government Act section 3). |
| Delegate | The Mayor may refer the complaint against a member to a delegate such as the relevant Ward Councillor or the CEO or both. |

CL002 – Member Disciplinary Policy

6. PRINCIPLES

This policy complements the *Local Government Act 2008*, RGRC Members Code of Conduct, RGRC Complaints Policy and the RGRC values of Honesty, Equality, Accountability, Respect and Trust.

Anyone who believes a Member has breached the Code of Conduct is entitled to complain directly to the Agency's Disciplinary Committee.

Complaints referred to in this Policy are those coming directly to RGRC unless it is stated otherwise.

All Members will have ongoing professional development regarding the Code of Conduct.

A copy of the Member's Code of Conduct, the Complaints Policy and Member Disciplinary Policy will be issued to all Members and are available on the Council website, at Head Quarters and in all Service Delivery Centres.

Councillors cease to be Members of a Council in the event that they are disqualified and no longer eligible from office under sections 37 or 39 of the *Local Government Act 2008*.

Councillors can only be removed from office by the Minister on the recommendation of the Disciplinary Committee or if they are convicted of an offence showing them to be unfit to remain in office (*Local Government Act section 83*).

Local Authority and Council Committee Members are appointed by the Roper Gulf Regional Council (RGRC) and can be removed by the Council without reference to the Agency or the Minister.

A Member, against whom a complaint is made, will be given the opportunity to state their case and talk the situation through with the Mayor or his/her Delegate.

All complaints against Members will be discussed by Council in a closed session of an Ordinary Council Meeting.

A Member may apply to the Mayor for a leave of absence in the case of serious personal problems or illness.

A Member may have a support person present at any stage of the disciplinary process.

A Member will not directly approach a person who has made a complaint about them in regards to that complaint, without having an adult witness present.

The Mayor is responsible for Council discipline and may request the assistance of the Deputy Mayor, Ward Councillor and/or CEO for investigations of complaints or for ongoing support of cases that are lodged to the Agency.

The Agency and/or LGANT may be approached at any time for confidential advice or assistance in relation to actual or alleged misconduct by a Member.

Council retains the right to seek legal advice at any time and to refer misconduct that may involve criminal behaviour to the police.

CL002 – Member Disciplinary Policy

Council retains the right to refer issues to the Agency's Disciplinary Committee at any stage of the disciplinary process if it appears that a serious breach of the Code of Conduct may be involved.

7. POLICY CONTENT

7.1 Four sources of information about alleged misconduct

Alleged misconduct by a Member can be grouped into four areas according to the source of information:

- Possible inappropriate behaviour but no formal complaint
- Member convicted of an offence
- Formal complaint to Roper Gulf Regional Council
- Formal complaint direct to the Agency

7.2 Disciplinary process

7.2.1 Informal disciplinary process - preliminary discussion

When it appears that a Member may have engaged in misconduct, except when a complaint has gone direct to the Agency, the Mayor or his/her Delegate will initiate informal discussions with the Member involved. The Mayor/Delegate will provide specific details of the alleged misconduct. At this stage it will be decided whether further investigation is needed or whether the Member has no case to answer.

After investigation if the alleged Member has committed a breach of the Code of Conduct, regardless of whether there is a formal complaint or not, the Mayor/Delegate will report to Council the breach for decision to lodge with the Agency.

7.2.2 Formal disciplinary process

If a complaint about misconduct appears to be justified or if a Member has not responded to preliminary discussions about less serious misconduct, a formal meeting with the Mayor/Delegate will take place. At this meeting the previous issues of the Member will be raised formally as will any additional evidence produced by investigation of the complaint. The disciplinary process will be explained to the Member.

If the Member has committed a breach of the Code of Conduct, the Mayor/Delegate will report to Council the breach for decision to lodge with the Agency.

7.3 Situations that lead to automatic disqualification of Councillors

The Local Government Act specifically disqualifies people from becoming candidates for Councillor or from staying on as Councillors if they:

- a. hold a judicial office (other than Justice of the Peace) (section 37 (1) (a));
- b. are bankrupt (section 37 (1) (b));
- c. have been sentenced to a term of imprisonment (which has not expired) of one year or more (section 37 (1) (c));
- d. is an employee of Council (section 37 (1) (d));
- e. owe the Council money for rates or surcharge and fail to pay off the debt within six months (section 37 (1) (e));
- f. are certified mentally unfit by two medical practitioners (section 37 (1));
- g. are no longer enrolled as an elector residing within the Council area (section 39 (1) (c)); or
- h. fail to attend two consecutive Ordinary Meetings of Council without permission from Council (section 39 (1) (d)).

CL002 – Member Disciplinary Policy

In these situations, the Councillor is automatically disqualified even if there has been no breach of the Code of Conduct or formal complaint. The Council can formalise this process without going through the Agency.

7.4 Situations that lead to automatic disqualification of Local Authority or Council Committee Members

The *Local Government Act 2008* does not apply the list of criteria for automatic disqualification above in 7.3 to Local Authority or Council Committee Members. It is Roper Gulf Regional Council Policy that Local Authority and Council Committee Members will automatically be disqualified from the relevant Local Authority or Committee if they:

- a. are bankrupt;
- b. have been sentenced to a term of imprisonment (which has not expired) of one year or more;
- c. owe the Council money for rates or surcharge and fail to pay off the debt within six months;
- d. are certified mentally unfit by two medical practitioners;
- e. fail to attend two consecutive meetings of the relevant Local Authority or Council Committee without permission from that Local Authority or Committee;
- f. lose a vote of no confidence by at least 60% of the Members of the Local Authority or Committee on which they serve.

Council reserves the right to suspend Local Authority or Council Committee Members whilst any of the above matters are being investigated. An apology from the Member will be automatically assumed and accepted for any meetings held by the relevant Local Authority or Committee during any such period of suspension.

8. REFERENCES

| | |
|---|---|
| Acknowledgements (original author/source documents) | Councillor Disciplinary Procedures draft 1 May 09 by Arianne McCormack. Re-worked by Moira McCreesh Nov-Dec 09. Reviewed & updated by Moira McCreesh/Sharon Hillen Oct-Nov 10. |
| Related Policies | ADM003 Complaints Policy CL001 Members Code of Conduct |
| Related Publications | Local Government Act 2008. |

9. DOCUMENT CONTROL

| | |
|---------------|--|
| Policy number | CL002 |
| Policy Owner | Manager Governance and Corporate Planning |
| InfoXpert ID | 670863 |
| Endorsed by | Council |
| Approved | 21st October 2009 (OCM); 24th November 2009 (FCM) |
| Revisions | October 2010 Updated 17 December 2011 September 2016 |
| Amendments | November 2010 - Title of policy changed from 'Councillor Disciplinary Policy' to 'Members' Disciplinary Policy' and policy altered to cover all Members, not only Councillors. Clarified that Council cannot remove Councillors from office. Automatic disqualification criteria for Local Board and Council |

CL002 – Member Disciplinary Policy

| | |
|-------------------|---|
| | Committee Members added. August 2016 – Removal of disciplinary processes stage 2 and 3; Amendments to processes to clarify “if a breach of Code of Conduct the complaint will be reported to Council to lodge the complaint to the Agency” |
| Next revision due | September 2018 |

10. CONTACT PERSON

Position

Manager Governance and Corporate Planning

Contact number

08 8972 9005