

LOCAL RECYCLING COMMITTEE

MEMORANDUM OF UNDERSTANDING

1. SCOPE

The Local Recycling Committee was established as a special committee of the Northern Midlands Council on 20 January 2020 (min. ref. [REDACTED]) pursuant to section 24 of the *Local Government Act 1993*.

2. PURPOSE

The purpose of the Local Recycling Committee is to:

- Provide a focal point for information relating to waste disposal and recycling between the Northern Midlands Council and the community;
- Identify and prioritise achievable local recycling initiatives;
- Consider and provide feedback to the Northern Midlands Council in respect to key strategic recycling issues.

3. PARTIES TO THE AGREEMENT

This agreement is between the Northern Midlands Council and the members of the Local Recycling Committee.

4. MEMBERSHIP

Membership of the Local Recycling Committee shall comprise of a of seven (7) members.

Members are appointed for a term of two (2) years (term of membership).

Members are to comprise of:

- Four Community Members
- Two Councillors
- One Council Officer

Membership of the Local Recycling Committee is to be advertised at least 6 weeks, but no more than 8 weeks prior to the expiration of a term of membership. Advertising is to occur:

- In the Northern Midlands Courier Newspaper; and
- On social media.

Should the number of applications for membership exceed the number of vacancies, Council's executive will determine the successful applicants.

In the event that insufficient applications are received to fill the number of vacancies, Council will, periodically, re-advertise the positions in the Northern Midlands Courier Newspaper and via social media.

Membership is to be ratified by the Northern Midlands Council at an ordinary Council meeting prior to the commencement of the term of membership.

At the conclusion of their terms of office, members are eligible to reapply for membership of the Committee.

Northern Midlands Council shall have the power to appoint from within the membership the following officers:

- Chairperson
- Vice Chairperson

All officers shall be appointed at an ordinary Council meeting.

Members of the Committee will be deemed to vacate their position if they are absent without leave from three (3) consecutive meetings of the Committee.

5. ROLES AND RESPONSIBILITIES

The following are the roles and responsibilities of the Local Recycling Committee:

- Primary focus:
 - Avoid unnecessary resource consumption
 - Avoid waste, reducing quantity of waste
 - Re-use, consider opportunities to reuse items before sending to refuse site
 - Recycle, recover value from things that would otherwise be disposed of.
- To draw the attention of Council to any matters relating to improvements to recycling and waste disposal.
- To consider and report on any matters which may be referred to it by the Northern Midlands Council.
- To liaise with the community and special interest groups to ascertain their views/opinions on local waste issues and projects.
- To receive communications from the local community and special interest groups and forward their letters/requests with appropriate comment/recommendations to Council.

6. MEETING PROCEDURES

There are to be a minimum of 6 meetings of the Local Recycling Committee on an annual basis.

Meeting length is not to exceed 1.5 hours.

Notice of a meeting is to be given to the members of the Local Recycling Committee at least 4 days but not more than 14 days prior to an ordinary meeting.

An agenda for the meeting is to be provided to the members of the Local Recycling Committee at least 4 days prior to an ordinary meeting.

A meeting quorum is a majority of the Local Recycling Committee current membership. For example, if the total number of members is 7, the quorum is 4.

A decision by the Local Recycling Committee is to be made by consensus (half the members present at a meeting, plus one). In the event the decision is split, the Chair is to make the final decision.

Guests attending Local Recycling Committee meetings are to do so as observers only and may only participate on invitation by the Chair. Guests must abide by meeting protocol.

Guests wishing to make a presentation or to provide comment at a meeting are to seek consent from the Chair and/or Secretary prior to the meeting.

Unless otherwise agreed, such presentation or comment is limited to a maximum of 3 minutes.

Minutes of an ordinary meeting are to be circulated as soon as practicable after the meeting, but no more than 10 days after the meeting.

If required, subgroup meetings will be arranged outside of ordinary meeting times, at a time convenient to the subgroup members.

Meetings are to be governed in accordance with the procedures stated above, and in the event, this Memorandum of Understanding is silent in respect to a procedure, reference is to be made to the *Local Government (Meeting Procedures) Regulations 2005* for the appropriate procedure.

7. COMMUNICATION, INFORMATION SHARING AND CONSULTATION

The Councillor and Officer representatives will be participating members entitled to move and vote on any decisions made by the committee.

Minutes of the meetings of the Local Recycling Committee are to be reported to the Northern Midlands Council as an information item to the next Council meeting after the meeting of the Local Recycling Committee.

If the Local Recycling Committee wishes Council to investigate a matter it must put a motion to the Northern Midlands Council for consideration.

The Secretary is to report back to the Committee the outcome of any motions.

Any correspondence received by the membership in relation to the Local Recycling Committee, which has not been referred to the Committee by Council or generated by Council, is to be provided to Council within 14 days of receipt thereof. Correspondence will be recorded by Council and a formal response provided by Council. Approval of any correspondence to be sent by the Local Recycling Committee is to be sought by the Secretary.

8. REVIEW AND EVALUATION

At the General Meeting of the Local Recycling Committee held at the commencement of each term of appointment, the Local Recycling Committee is to review this Memorandum of Understanding and suggest amendments to its content.

9. RESOURCES

The following resources are provided by the Northern Midlands Council to the Local Recycling Committee:

- Secretarial assistance at scheduled bi-monthly meetings, during normal office hours.

LOCAL RECYCLING COMMITTEE

CHAIRPERSON

DATE: _____

NORTHERN MIDLANDS COUNCIL

MAYOR

DATE: _____

WITNESS: _____
GENERAL MANAGER

DATE: _____

Amendments to *Local Government Act 1993* and *Local Government (Model Code of Conduct) Order 2016*

Gov 8

INFORMATION SHEET

This information sheet provides a summary of the changes made to the *Local Government Act 1993* and the *Local Government (Model Code of Conduct) Order 2016* in December 2018

Code of Conduct Changes

Following a review of the model code of conduct framework, there have been changes made to both the *Local Government Act 1993* (the Act) and the *Local Government (Model Code of Conduct) Order 2016* (the Code). Together, these changes will improve the overall efficiency and effectiveness of the complaints handling process.

Amendments to the Act apply as of 10 December 2018 include:

- **section 28V(3)(fb)** - a new requirement that a complainant provide details of reasonable efforts made to resolve the issue that is the subject of the complaint, when lodging a complaint;
- **section 28ZE(5A)** - a new requirement that a complainant (along with councillors or employees of the council) are to provide a statutory declaration verifying the accuracy of the information they provide in respect of a complaint;
- **section 28ZB(1)(a) and (ab)** - a new provision to allow the chairperson of a Code of Conduct Panel to dismiss complaints on the basis of 'triviality', as well as on the basis that the complainant has not made a reasonable

effort to resolve the issue prior to lodgement of the complaint;

- **section 72(1)(ba)** - a new provision requiring councils to include in their annual report the number of code of conduct complaints that were received in total, as well as the number that were upheld either wholly or in part;
- **section 339** - a new offence provision to explicitly prevent any person from misusing information acquired in relation to a code of conduct investigation; and
- a small number of minor amendments focused on improving the overall procedural fairness, confidentiality and transparency of the complaints handling process.

Amendments to the model code were approved by the Minister for Local Government on 7 December 2018 and came into effect upon Gazettal on 26 December 2018. However, these changes will not apply until the amended model code is adopted by the relevant council.

Amendments include:

- **part 2 – clause 7** - changes to make it clear that the model code does not apply to pecuniary interests or to the

disclosure of confidential information, as these are dealt with as offence provisions under the Act; and

- **Part 2 – clause 6** - the introduction of a 'reasonable person' test in relation to non-pecuniary conflicts of interest. This replaces the 'materiality' test, and is intended to provide consistency within the Code and with common law principles. Further guidance will be issued about what is the 'reasonable person'.

Miscellaneous Changes

Miscellaneous amendments to the Act were also made in order to address a number of minor drafting and administrative matters. Relevant changes include:

Pecuniary interests - section 52(1)(d)

The Act was amended to clarify that a councillor can only vote on a matter relating to the payment of allowances or expenses if that matter relates to all councillors of the council.

Gifts and donations register - section 56B(3)

The register of gifts and donations for elected members is required to be made permanently available at the relevant council's office, on the council's website and updated at least monthly.

Improper use of information - section 339(1), (2) and (2A)

Existing provisions have been extended to capture former councillors, members, members of an audit panel or employees, similar to the restrictions that apply under the *Corporations Act 2001* to former directors with respect to the misuse of information.

Vacation of office - Schedule 5 - clause 3(1)

The office of a councillor, who is elected to any Parliament in Australia, is vacated on the day on which they begin to hold office in that Parliament. This will prevent members elected to Tasmanian or Australian Parliament continuing to also serve as councillors.

Customer service charter - section 339F(4)

A review of a council's charter needs to be undertaken within 12 months of a council election, rather than every two years.

Disclaimer: Advice on legislation or legal policy issues contained in this paper is intended for information and general guidance only. Such advice is not professional legal opinion.

CODE OF CONDUCT FOR ELECTED MEMBERS

Originated Date:	Adopted 5 June 2006 – Min Ref 187/06 (as Policy 47)
Amended Date/s:	Amended 17 September 2007 – Min. No. 297/07 Amended 17 November 2008 – Min. No. 261/08 Endorsed 18 October 2010 – Min. No. 273/10 Amended 20 August 2012 – Min. No. 209/12 Amended 15 October 2012 – Min. No. 274/12 Amended 22 June 2015 – Min. No. 159/15 Amended 16 May 2016 – Min. No. 126/16 Amended 18 February 2019 – Min. No 037/19 Amended 20 January 2020 – Min. No./20
Applicable Legislation:	Part 3, Division 3A - <i>Local Government Act 1993</i>
Objective	This Code of Conduct provides Councillors with guidelines for their conduct in their duty as an elected member.
Administration:	Governance
Review Cycle/Date:	Within 3 months following a Council election. Next review 2022.

1. PURPOSE

This Code of Conduct sets out the standards of behaviour expected of the councillors of the Northern Midlands Council, with respect to all aspects of their role.

As leaders in the community, councillors acknowledge the importance of high standards of behaviour in maintaining good governance. Good governance supports each councillor's primary goal of acting in the best interests of the community.

Councillors therefore agree to conduct themselves in accordance with the standards of behaviour set out in the Code of Conduct.

This Code of Conduct incorporates the Model Code of Conduct made by Order of the Minister responsible for local government.

2. APPLICATION

This Code of Conduct applies to a councillor whenever he or she:

- conducts council business, whether at or outside a meeting;
- conducts the business of his or her office (which may be that of mayor, deputy mayor or councillor); or
- acts as a representative of the Council.

A complaint or failure to comply with the provisions of the Code of Conduct may be made where the councillor fails to meet the standard of conduct specified in the Model Code of Conduct.

3. STANDARDS OF CONDUCT

The model code of conduct provides for the following eight standards of conduct:

DECISION MAKING

A councillor is to bring an open and unprejudiced mind to all matters being considered in the course of his or her duties, so that decisions are made in the best interests of the community.

CONFLICT OF INTEREST

A councillor effectively manages conflict of interest by ensuring that personal or private interests do not influence, and are not seen to influence, the performance of his or her role and acting in the public interest.

USE OF OFFICE

A councillor uses his or her office solely to represent and serve the community, conducting himself or herself in a way that maintains the community's trust in the councillor and the Council as a whole.

USE OF RESOURCES

A councillor uses Council resources and assets strictly for the purpose of performing his or her role.

USE OF INFORMATION

A councillor uses information appropriately to assist in performing his or her role in the best interests of the community.

GIFTS AND BENEFITS

A councillor adheres to the highest standards of transparency and accountability in relation to the receiving of gifts or benefits, and carries out his or her duties without being influenced by personal gifts or benefits.

RELATIONSHIPS WITH COMMUNITY, COUNCILLORS AND COUNCIL EMPLOYEES

A councillor is to be respectful in his or her conduct, communication and relationships with members of the community, fellow councillors and Council employees in a way that builds trust and confidence in the Council.

REPRESENTATION

A councillor is to represent himself or herself and the Council appropriately and within the ambit of his or her role, and clearly distinguish between his or her views as an individual and those of the Council.

4. PRINCIPLES OF GOOD GOVERNANCE

By adopting this Code of Conduct, councillors commit to the overarching principles of good governance by being:

ACCOUNTABLE

Explain, and be answerable for, the consequences of decisions made on behalf of the community it represents and serves.

TRANSPARENT

Ensure decision making processes can be clearly followed and understood by the community.

LAW-ABIDING

Ensure decisions are consistent with relevant legislation or common law, and be within the powers of local government.

RESPONSIVE

Always try to represent and serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner.

EQUITABLE

Provide all groups with the opportunity to participate in the decision making process and treat all groups equally.

PARTICIPATORY AND INCLUSIVE

Ensure that anyone affected by or interested in a decision has the opportunity to participate in the process for making that decision.

EFFECTIVE AND EFFICIENT

Implement decisions and follow processes that make the best use of the available people, resources and time, to ensure the best possible results for the community.

CONSENSUS ORIENTED

Wherever possible, take into account the different views and interests in the community, to reach a majority position on what is in the best interests of the whole community, and how it can be achieved.

6. COMPLYING WITH THE CODE OF CONDUCT

Tasmanian councillors are required to comply with the provisions of the Council's Code of Conduct while performing the functions and exercising the powers of his or her office with the Council.

The Code of Conduct incorporates the Model Code of Conduct (made by order of the Minister responsible for local government) and may include permitted variations included as attached schedules to the Model Code of Conduct.

7. MAKING A CODE OF CONDUCT COMPLAINT

A person may make a code of conduct complaint against one councillor in relation to the contravention by the councillor of the relevant council's code of conduct.

A person may make a complaint against more than one councillor if the complaint relates to the same behaviour and the same code of conduct contravention.

Code of conduct complaints are lodged with the general manager of the relevant council and must comply with legislative requirements, as outlined below.

A complaint may not be made by more than two complainants jointly.

A code of conduct complaint is to –

- be in writing;
- state the name and address of the complainant;
- state the name of each councillor against whom the complaint is made;
- state the provisions of the relevant code of conduct that the councillor has allegedly contravened;
- contain details of the behaviour of each councillor that constitutes the alleged contravention;
- be lodged with the general manager within six months after the councillor or councillors against whom the complaint is made allegedly committed the contravention of the code of conduct; and
- be accompanied by the code of conduct complaint lodgement fee.

Once satisfied that the code of conduct complaint meets prescribed requirements, the General Manager forwards the complaint to the Code of Conduct Panel.

The code of conduct complaint lodgement fee is prescribed under Schedule 3 (Fees) of the

8. DISPUTE RESOLUTION

Councillors commit to developing strong and positive working relationships and working effectively together at all times.

Prior to commencing a formal code of conduct complaint, the councillors who are parties to any disagreement should endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to act in the best interests of the community.

A council's internal dispute resolution process should be the first step that is taken when there is a dispute between councillors.

A councillor who is party to any disagreement should request the Mayor (or Lord Mayor) or the General Manager to assist that councillor in resolving the disagreement informally.

If the informal assistance does not resolve the disagreement, the General Manager may, with the consent of the parties involved, choose to appoint an external mediator to assist in the resolution of the disagreement. If an external mediator is appointed, councillors who are party to the disagreement must strive to cooperate with the mediator and use their best endeavours to assist the mediator and participate in the mediation arranged.

Where a matter cannot be resolved through internal processes, the next step may be to lodge a formal code of conduct complaint.

Councillors should only invoke the provisions of the Code of Conduct in good faith, where it is perceived that another councillor has not complied with the provisions or intent of the Code of Conduct.

The Director of Local Government is responsible for the investigation of complaints regarding alleged breaches of the Act.

Any person can make a complaint to the Director, via the Local Government Division (contact details below), in accordance with section 339E of the Act, where it is genuinely believed that a council, councillor or general manager may have committed an offence under the Act or failed to comply with the requirements of the Act.

To make a complaint, it is recommended that you first contact the Local Government Division to discuss whether the matter is something that the Division can assist with.

9. PUBLIC INTEREST DISCLOSURE

Any instances of suspected corrupt conduct, maladministration and serious and substantial waste of public resources or substantial risk to public health or safety or to the environment should be reported in accordance with the *Public Interest Disclosures Act 2002*. Disclosures may be made to the Tasmanian Ombudsman or the Tasmanian Integrity Commission.

10. KEY CONTACTS

Department of Premier and Cabinet's Local Government Division
Level 5, 15 Murray Street, HOBART TAS 7000
GPO Box 123, HOBART TAS 7001
Phone: (03) 6232 7022 Fax: (03) 6173 0257
Email: lgd@dpac.tas.gov.au
Web: www.dpac.tas.gov.au/divisions/local_government

Local Government Association of Tasmania
326 Macquarie Street, HOBART TAS 7000
GPO Box 1521, HOBART TAS 7001
Phone: (03) 6233 5966
Email: admin@lgat.tas.gov.au
Web: www.lgat.tas.gov.au

The Tasmanian Integrity Commission
Surrey House, Level 2, 199 Macquarie Street, HOBART TAS 7000
GPO Box 822, HOBART TAS 7001
Phone: 1300 720 289
Email: mper@integrity.tas.gov.au
Web: www.integrity.tas.gov.au

Ombudsman Tasmania
NAB House, Level 6, 86 Collins Street, HOBART TAS 7000
GPO Box 960, HOBART TAS 7001
Phone: 1800 001 170 Fax: (03) 6173 0231
Email: ombudsman@ombudsman.tas.gov.au
Web: www.ombudsman.tas.gov.au

11. REVIEW

This Policy is due for review by Council within 3 months of an ordinary Council election.

CODE OF CONDUCT

PART 1 - DECISION MAKING

- 1.1 A councillor must bring an open and unprejudiced mind to all matters being decided upon in the course of his or her duties, including when making planning decisions as part of the Council's role as a Planning Authority.
- 1.2 A councillor must make decisions free from personal bias or prejudgement.
- 1.3 In making decisions, a councillor must give genuine and impartial consideration to all relevant information known to him or her, or of which he or she should have reasonably been aware.
- 1.4 A councillor must make decisions solely on merit and must not take irrelevant matters or circumstances into account when making decisions.

PART 2 - CONFLICT OF INTERESTS THAT ARE NOT PECUNIARY

- 2.1 When carrying out his or her public duty, a councillor must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that he or she may have.
- 2.2 A councillor must act openly and honestly in the public interest.
- 2.3 A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the Council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the Council.
- 2.4 A councillor must act in good faith and exercise reasonable judgement to determine whether he or she has an actual, potential or perceived conflict of interest.
- 2.5 A councillor must avoid, and remove himself or herself from, positions of conflict of interest as far as reasonably possible.
- 2.6 A councillor who has an actual, potential or perceived conflict of interest in a matter before the Council must –
 - (a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and
 - (b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the councillor to remove himself or herself physically from any Council discussion and remain out of the room until the matter is decided by the Council.
- 2.7 This Part does not apply in relation to a pecuniary interest.

PART 3 - USE OF OFFICE

- 3.1 The actions of a councillor must not bring the Council or the office of councillor into disrepute.
 - 3.2 A councillor must not take advantage, or seek to take advantage, of his or her office or status to improperly influence others in order to gain an undue, improper, unauthorised or unfair benefit or detriment for himself or herself or any other person or body.
 - 3.3 In his or her personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), a councillor must not expect nor request, expressly or implicitly, preferential treatment for himself or herself or any other person or body.
-

PART 4 - USE OF RESOURCES

- 4.1 A councillor must use Council resources appropriately in the course of his or her public duties.
- 4.2 A councillor must not use Council resources for private purposes except as provided by Council policies and procedures.
- 4.3 A councillor must not allow the misuse of Council resources by any other person or body.

PART 5 - USE OF INFORMATION

- 5.1 A councillor must only access **or use** Council information needed to perform his or her role and not for personal reasons or non-official purposes.
- 5.2 A councillor must only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

PART 6 - GIFTS AND BENEFITS

- 6.1 A councillor may accept an offer of a gift or benefit if it directly relates to the carrying out of the councillor's public duties and is appropriate in the circumstances and is not in contravention of any relevant legislation.
- 6.2 A councillor must avoid situations in which a reasonable person would consider that any person or body, through the provisions of gifts or benefits of any kind, is securing (or attempting to secure) influence or a favour from the councillor or the Council.

PART 7 - RELATIONSHIPS WITH COMMUNITY, COUNCILLORS AND COUNCIL EMPLOYEES

- 7.1 A councillor –
 - (a) must treat all persons fairly; and
 - (b) must not cause any reasonable person offence or embarrassment; and
 - (c) must not bully or harass any person.
- 7.2 A councillor must listen to, and respect, the views of other councillors in Council and committee meetings and any other proceedings of the Council, and endeavour to ensure that issues, not personalities, are the focus of debate.
- 7.3 A councillor must not contact or issue instructions to any of the Council's contractors or tenderers, without appropriate authorisation.
- 7.4 A councillor must not contact an employee of the Council in relation to Council matters unless authorised by the General Manager of the Council.

PART 8 - REPRESENTATION

- 8.1 When giving information to the community, a councillor must accurately represent the policies and decisions of the Council.
 - 8.2 A councillor must not knowingly misrepresent information that he or she has obtained in the course of his or her duties.
 - 8.3 A councillor must not speak on behalf of the Council unless specifically authorised or delegated by the Mayor or Lord Mayor.
 - 8.4 A councillor must clearly indicate when he or she is putting forward his or her personal views.
-

- 8.5 A councillor's personal views must not be expressed publicly in such a way as to undermine the decisions of the Council or bring the Council into disrepute.
- 8.6 A councillor must show respect when expressing personal views publicly.
- 8.7 The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council.
- 8.8 When representing the Council on external bodies, a councillor must strive to understand the basis of the appointment and be aware of the ethical and legal responsibilities attached to such an appointment.

PART 9 - VARIATION OF CODE OF CONDUCT

- 9.1 Any variation of this model code of conduct is to be in accordance with section 28T of the *Local Government Act 1993*.
-