

Behaviour Complaints Committee Terms of Reference



25 August 2021

Name

The committee shall be known as the Shire of Augusta Margaret River Behaviour Complaints Committee (BCC).

Role of the committee

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the *Local Government Act 1995* (the Act) for the purpose of dealing with Behaviour Complaints made under Division 3 of the Shire of Augusta Margaret River Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

Objectives

The objectives of the Committee and extent of authority provided to the Committee are specified in the relevant Delegated Authority, and include:

- Dismissing a behaviour complaint in accordance with clause 13 of the Code of Conduct and providing reasons for any such dismissal.
- Making a Finding as to whether an alleged complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur [*clause 12(3) of the Code of Conduct*].
- Determining reasons for such a Finding.
- Where a Finding is made that a breach has occurred, determining:
 - To take no further action; or
 - Prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

The extent of authority of the Behaviour Complaints Committee is limited by Condition of the Delegated Authority.

Membership

The Complaints Committee is a Committee of Council Members only in accordance with s.5.9(2)(a) of the Act.

Membership of the Behaviour Complaints Committee will comprise of seven Council Members, appointed by Council in accordance with s.5.10 of the Act.

Membership of the complaints committee shall be, unless otherwise specified, for a term ceasing at the date of the local Government election in the year the Shire's local government elections are held, after which time the Council may appoint members for a further term.

The Delegated Authority Condition prescribes that if an appointed Committee Member is identified in the Complaint as either the Complainant or the Respondent, they are to recuse themselves from the Committee's Function by providing an apology.

No member of staff is to be a member of the Committee, but the CEO, or Behaviour Complaints Officer or other staff may participate in an advisory role, or provide administrative support to the committee.

Presiding Member

The Committee shall appoint a Presiding Member and Deputy Presiding Member to conduct its business. The Presiding Member shall ensure that minutes of the proceedings are kept and that business is conducted in accordance with the Shire of Augusta Margaret River Standing Orders (Local Law).

The *Local Government Act 1995* places responsibility for speaking on behalf of Council with the President, or the CEO if the President agrees.

The Presiding Member if different from the President is to refrain from speaking publicly on behalf of the committee or Council, or to issue any form of written material purporting to speak on behalf of the committee or Council without the prior approval of the President.

Meeting Schedule

Meetings are to be scheduled as required by the CEO or Behaviour Complaints Officer in consultation with the Committee Presiding Member.

Conduct of Meetings

Complaints Behaviour Committee meetings are required to:

- be called and convened by the CEO, as required, in consultation with the Committee's Presiding Member;
- include public question time *[Admin.r.5]*
- make the Committee Notice Papers and Agenda publicly available *[s.5.94(p), s.5.96A(f)]*, with the exception of agenda content that relates to that part of the meeting which will be closed to members of the public under s.5.23(2) *[Admin.r.14]*; and
- make Committee minutes publicly available *[s.5.94(n), s.5.96A(h)]*, with the exception of Minutes content that relates to that part of the meeting which was closed to the public or was determined as confidential under s.5.23(2).

Quorum

Quorum for a meeting shall be at least 50% of the number of members, whether vacant or not. A decision of the Committee does not have effect unless a simple majority has made it.

The Council may reduce* the number of members required for a quorum at a committee meeting if there would not otherwise be a quorum for the meeting (s5.15 LGA).

*Absolute majority required.

Delegated Authority

The Behaviour Complaints Committee will act under Delegated Authority in accordance with s.5.16 of the Act. The delegation is recorded in the Shire of Augusta Margaret River Delegation Register.

It is a Condition of Delegated Authority that the Behaviour Complaints Committee will be unable to exercise delegated authority if the Complainant or Respondent attend as a Complaints Committee Member.

Document and version control table			
Responsible Directorate	CEO		
Contact officer	Emma Rogers, Governance (Legal, Risk) Officer		
Adopted / approved by:	Council		
Date of adoption / approval:	25 August 2021	Decision Ref:	OM2021/172
Date of next review	August 2025		
Document No.	N225673	File No.	GOV/67
Version	Date	Decision Ref.	Brief description
1.0	25/8/2021	OM2021/172	Initial Issue
1.1			