

## OCEO003 – Elected Members – Breach of Code of Conduct Policy

### 1. POLICY CERTIFICATION

Policy title:	<b>Breach of Code of Conduct (Members)</b>
Policy number:	<b>OCEO003</b>
Category:	<b>Policy</b>
Classification:	<b>Office of the Chief Executive Officer</b>
Status:	<b>Approved, In-Force</b>

### 2. PURPOSE

The Code of Conduct (the Code) for Elected Members is a legislative requirement prescribed at Schedule 1 of the *Local Government Act 2019* (the Act) that outlines the acceptable behavioural standards, ethical, transparency, and accountability responsibilities for Council's Elected Members.

The Code arises from a legislative requirement and is the authoritative instrument on Elected Member conduct, prevailing over all other corporate or contractual documents in the event, and to the extent of any inconsistency.

This policy is made in accordance with Section 121 of the Act and outlines Council's position on dealing with alleged and actual contraventions of the Code.

### 3. ORGANISATIONAL SCOPE

This policy applies to all Elected Members of Roper Gulf Regional Council (Council).

### 4. POLICY STATEMENT

Council affirms its commitment to maintaining and exercising the highest professional and ethical standards in the service of its constituents, and the public in general. To this end, Council expects its Elected Members to uphold and comply with their prescribed legislative requirements pertaining to conduct as set out in the Code.

The Code is applicable to Elected Members on an individual basis and alleged breaches will be formally dealt with in accordance with the principles on *Natural Justice* and the principles set out at Clause 6 of this policy.

Complaints alleging breaches of the Code by Elected Members shall be forwarded to the Chief Executive Officer formally for assessment and review. If the allegations meet the criteria outlined at Clause 6 of this Policy, they will be formally referred to a third party for investigation.

Council affirms its commitment to the principles of *Natural Justice* and recognises that its particular circumstances are such that a third party would be better suited to investigating formal complaints against its Elected Members, so as to promote and maintain the integrity and impartiality of the investigation, and the fairness of any outcome.

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### 5. DEFINITIONS

<b>Code of Conduct</b>	Standards of behaviour expected of Council's Elected Members as prescribed at Schedule 1 of the <i>Local Government Act 2019</i> .
<b>Natural Justice</b>	The right to be given a fair hearing, and the opportunity to present one's case, and the right to have a decision made by an unbiased or disinterested decision maker, based on logically probative evidence: <i>Salemi v MacKellar (No 2)</i> (1977) 137 CLR 396; 14 ALR 1.

### 6. PRINCIPLES

#### 6.1 Lodgment of Complaints against Elected Members

Complaints alleging a breach of the Code by an Elected Member of Council must be forwarded to the Chief Executive Officer (CEO) in a manner consistent with Chapter 7 of the Act.

#### 6.2 Receipt and processing of Complaints against Elected Members

Formal complaints will be reviewed by the CEO to assess whether or not the complaint is actually alleging a breach of the Code.

If the complaint alleges a breach of the Code it will be formally registered and investigated in a manner consistent with the *Rules of Evidence* and the principles of *Natural Justice*.

#### 6.3 Investigation of Complaints against Elected Members

Council hereby, through this policy, formally states that formal complaints against its Members shall be formally investigated and dealt with by an appropriate third party in a manner consistent with applicable law.

By default, this third party will be the Prescribed Corporation Panel in accordance with Chapter 7 of the Act.

#### 6.4 Deciding the outcome of a Complaint against Elected Members

Council hereby affirms its commitment to Complaints against its Members being dealt with by the Prescribed Corporation so as to maximise impartiality and procedural fairness.

#### 6.5 Confidentiality

Information pertaining to formal complaints is strictly confidential.

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### 7. Applicable Law

Cited Acts	<i>Local Government Act 2019</i>
Applicable Acts (not exhaustive)	<ul style="list-style-type: none"> <li>• <i>Information Act 2002</i>;</li> <li>• <i>Criminal Code Act 1983</i>;</li> <li>• <i>Anti-Discrimination Act 1992</i>; and</li> <li>• <i>Privacy Act 1988 (Cth)</i>.</li> </ul>
Cited Case Law	<ul style="list-style-type: none"> <li>• <i>Salemi v MacKellar (No 2) (1977) 137 CLR 396; 14 ALR 1</i></li> </ul>
Other Reference Material	COR005 Corporate Processes Policy

### 8. DOCUMENT CONTROL

Policy number	<b>OCEO003</b>
Policy Owner	<b>OCEO</b>
Endorsed by	<b>Council</b>
Date approved	<b>28/04/2021</b>
Revisions	<b>Nil</b>
Amendments	<b>Nil</b>
Next revision due	<b>2025</b>

### 9. CONTACT PERSON

Position	<b>Chief Executive Officer</b>
Contact number	<b>(08) 8972 9000</b>