

EMRC Council Member Complaints Procedure

Interrelated Documents

EMRC Code of Conduct for Council Members, Committee Members and Candidates.
EMRC Complaint About Alleged Breach Form

Statutory Requirements

Local Government (Model Code of Conduct) Regulations 2021
Local Government Legislation Amendment Act 2019

Purpose

To establish, in accordance with clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and the EMRC Code of Conduct, the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the EMRC Code of Conduct for Council Members, Committee Members and Candidates.

Scope

The procedures apply to complaints made in accordance with clause 11 of the *EMRC Code of Conduct* for Council Members, Committee Members and Candidates.

These procedures apply to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with these procedures.

Definitions

Code of Conduct means:

the EMRC Code of Conduct for Council Members, Committee Members and Candidates.

Complainant means:

a person who has submitted a Complaint in accordance with these procedures.

Complaint(s) means:

a complaint submitted under clause 11(3) of the *EMRC Code of Conduct*.

Complaints Officer means:

a person authorised in writing by EMRC Council resolution dated 25 February 2021 under clause 11(3) of the *EMRC Code of Conduct* to receive complaints and withdrawals of complaints.

Respondent means:

a person who a Complaint is made against by the Complainant.

Procedures

Confidentiality

The EMRC will take all reasonable steps to maintain confidentiality when dealing with the Complaint, in order to protect both the Complainant and Respondent.

Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely and must not disclose or inappropriately use this information.

Complainants will be advised of the level of confidentiality they can expect and that breaches of confidentiality on their part may prejudice the progress of their Complaint.

Role of the Complaints Officer

The Complaints Officer is authorised in accordance with clause 11(3) of the *EMRC Code of Conduct* to accept Complaints and withdrawal of Complaints.

The Complaints Officer is not an advocate for the Complainant or the Respondent. The Complaints Officer provides procedural information and assistance to both the Complainant and Respondent.

Making a Complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of the *EMRC Code of Conduct*.

The following process must be followed after a Complaint is made:

- A Complaint may be made using the EMRC Complaint About Alleged Breach Form, available on the EMRC's website and forwarded to the Complaints Officer.
- A Complaint must be made within one (1) month after the alleged breach and the Complaint is required to include the name and contact details of the Complainant therefore anonymous complaints cannot be accepted.
- The Complaints Officer must acknowledge the Complaint within ten (10) days of receipt of the Complaint.
- The Respondent is informed of the Complaint and invited to comment and provide information on the alleged conduct and is provided 14 days to respond to the Complaint.
- The Complaints Officer analyses the evidence provided and prepares a draft report for Council consideration.
- The Complaints Officer is to provide a copy of the Council report to the Complainant and the Respondent for comment and given 14 days to provide a response.
- The Complaints Officer considers any feedback given and finalises the report to Council.
- The Council considers the report at its ordinary Council meeting and makes a finding.
- In the event that Council cannot reach a finding, the Complaint is to be referred to an independent person (to be determined) to review the Complaint and make a recommendation on the appropriate actions.
- A report is then to be provided back to Council on the independent review.
- The Complainant and the Respondent are to be advised of the Council decision and given 28 days to appeal the Council decision.
- If a breach is determined, the Register of Complaints is updated on the EMRC's website.

- If the Complainant or Respondent object to the breach recorded, this will need to be reported back to Council.
- An action plan is to be developed in consultation with the Respondent.
- The action plan is to be monitored for compliance and any non-compliance and proposed action to be reported back to Council.

Where a Complaint is made more than one (1) month after the alleged breach, the Complaints Officer will give the Complainant written notice that the Complaint cannot be made.

Withdrawing a Complaint

A Complainant may withdraw their Complaint at any time before a finding has been made in relation to the Complaint by advising the Complaints Officer in writing of the withdrawal.

After receiving a written withdrawal of the Complaint, the Complaints Officer will take all the necessary steps to terminate the process commenced under the EMRC Councillor Complaints Procedure.

Responsibility

Adopted/Reviewed by Council

26 August 2021

Next Review

2023

Responsible Unit

Business Support Team - Governance