

TITLE:	Member's Disciplinary Policy		
DIVISION:	Corporate		
ADOPTED BY:	Barkly Regional Council		
DATE OF ADOPTION:	30 August 2018	DATE OF REVIEW:	August 2020
MOTION NUMBER:	OC 213/18		
POLICY NUMBER:	CP000057		
AUTHORISED:	Barkly Regional Council		

THIS POLICY APPLIES TO:

All Elected and Appointed Members of the Barkly Regional Council.

SUMMARY

The aim of all policy is for Councillors to provide strategic input into the effective operational framework of the organisation under S.11 of the Local Government Act. This policy should be read in conjunction with the Barkly Regional Council Code of Conduct Policies.

OBJECTIVES

This Policy sets out to protect and enhance the integrity and reputation of Barkly Regional Council by maintaining appropriate standards of conduct for Councillors, Local Authority Members and Council Committee Members

BACKGROUND

When Members take up their position they are bound by the Barkly 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 Barkly Regional Council.

DEFINITIONS**Complaint**

Complaint is 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 to the Barkly Regional Council, 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.

POLICY

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 Barkly Regional Council
- Formal complaint direct to the Agency

Disciplinary process

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 Government department, 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 Government Department.

Formal disciplinary process

If a complaint about misconduct is 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 with 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.

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)).

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.

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 to Local Authority or Council Committee Members. It is Barkly 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.
- g. Situations where it is noted that:
 - a. The member act or seem to act improperly and not in accordance with the requirements to behave in a professional atmosphere
 - b. The member perform or seem to perform to gain advantage for themselves or for any other person
 - c. Make improper allegations or derogatory comments while during or outside a meeting
 - d. Trying to dominate or influence over staff or other members or creating unnecessary arguments that disrupt normal functioning of the Council
 - e. Making allegations which may cause unwarranted offence or embarrassment to others
 - f. Making improper use of their positions for any unfair advantages
 - g. Any other act which could fall under the definition of a serious misconduct or against the Code of Conduct Policy

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.

RISK MANAGEMENT

In the implementation of the Barkly Regional Council policy development, all Elected Members, employees, Local Authority Members, Council Committee Members, communities and stakeholders are encouraged to communicate any risks they perceive to the Chief Executive Officer.

RELATED POLICIES

Code of Conduct Policy – Members
Code of Conduct - Staff & Contractors

LEGISLATION & STANDARDS

Local Government Act (NT)
Ministerial Guidelines 8

LINKS

https://dhcd.nt.gov.au/_data/assets/pdf_file/0009/261684/guideline-8-regional-councils-local-authorities.pdf

<https://legislation.nt.gov.au/Legislation/LOCAL-GOVERNMENT-ACT>

RESPONSIBILITY & DELEGATION

CEO

EVALUATION AND REVIEW

Policy reviewed every two years.
Next review date August 2020