



Model Code of Conduct

Council Members, Committee Members and Candidates

On 3 February 2021, the Local Government (Model Code of Conduct) Regulations 2021 (Model Code) introduced a mandatory code of conduct for council members, committee members and candidates.

The purpose of the Model Code is to guide decisions, actions and behaviours of council members, elected and unelected committee members, and candidates in local elections. The intent of the Model Code is that local governments will address behaviour through education rather than sanctions.

The Model Code replaces the previous statutory requirement for local governments to develop and implement an individual code of conduct for their council members, committee members and employees.

The need for a Model Code

Individuals who are, or seek to be, members of local councils and council committees are entrusted by their community to represent local views, make sound decisions, and utilise public funds effectively to deliver services and amenities for their community. As such, a high standard of professional and ethical conduct is expected of council members and committee members in local governments, as well as candidates in local government elections.

A review of the Local Government Act 1995 (Act), including consultation with community and sector stakeholders, led to the implementation of priority reforms under the Local Government Legislation Amendment Act 2019 (Amendment Act).

The Amendment Act was developed in response to stakeholder feedback that there was a need for governance reforms, including a Code of Conduct for council members, committee members and candidates that clearly reflects community expectations of behaviour and supports consistency between local governments in relation to the overall process for managing alleged breaches of that Code.

Required actions for local governments and individuals

Section 5.104 of the Act requires that local governments adopt the Model Code as their Code of Conduct within three months of the Regulations coming into operation (by 3 May 2021). Note: The operational requirements of Division 3 require local governments to take certain initial actions, ideally within three weeks (by 24 February 2021).

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In accordance with section 5.104(5), the Model Code applies until the local government adopts it as their Code. This means that the principles, behaviour requirements and rules of conduct of the Regulations apply to council members, committee members and candidates even if their local government has not yet adopted the Model Code.

To begin implementation of the Model Code, by 24 February 2021, local governments should:

- appoint a person(s) to receive complaints by either affirming the complaint officers or appointing a new or additional officer(s), and
- approve a form for complaints to be lodged (a template is available for download).

If these actions are not completed by 24 February 2021, under the provisions of the Regulations, a complaint made on or around 3 February 2021 may lapse before it can be formally lodged. This would be considered inconsistent with the principles of procedural fairness and community expectations of local government.

To adopt the Model Code, a resolution passed by an absolute majority of the council is required. Once the Code is adopted, it must be published on the local government's official website (section 5.104(7)).

A copy of the Model Code and associated Explanatory Notes should be provided to all council members, committee members and any candidates in upcoming elections.

It is the individual responsibility of council members, committee members and candidates to become familiar with the Model Code, the Guidelines on the Model Code as well as any relevant policies of their local government, and to follow the Code at all times.

Responding to complaints about behaviour

The Model Code provides a high-level process that requires local councils to make a finding on complaints regarding the alleged behaviour of council members, committee members and candidates that have been elected.

Local governments are encouraged to develop a policy and/or procedure for dealing with complaints that is consistent with the Regulations. Local governments may adapt any existing policies and procedures to ensure consistency with the Model Code.

The department has prepared guidelines to assist local governments in this matter. In addition, there are a **[range of resources available from the Ombudsman WA](https://www.ombudsman.wa.gov.au/Agencies/Complaints_processes.htm)** (https://www.ombudsman.wa.gov.au/Agencies/Complaints_processes.htm).

Additions to the Model Code

Local governments may not amend Division 2 (Principles) or Division 4 (Rules of Conduct). Additional behaviour requirements can be included in Division 3 (Behaviours) if deemed appropriate by the local government. Any additions must be consistent with the Model Code of Conduct (section 5.104(3) of the Act).

In preparing the Model Code for adoption, local governments are encouraged to review their existing Code and consider incorporating any additional behaviour requirements that are not represented in the Model Code. This may include specific dress standards or the appropriate use of technology.

Further information and support available

Further information can be found on the department's website, including a copy of the **[regulations, detailed explanatory notes and guidelines \(/local-government/strengthening-local-government/public-consultations/local-government-act-review/priority-reforms\)](#)**. Local governments can also contact the department via **actreview@dlgsc.wa.gov.au** (**<mailto:actreview@dlgsc.wa.gov.au>**) with any queries in relation to the Model Code.
