

CORP 01

Code of conduct complaints

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| Strategic Objective | Visionary, Leading, Responsible Demonstrate a high standard of transparency and accountability through a comprehensive governance framework |
| File Ref | 070936.2025 |
| Report By | David Galpin - General Counsel |
| Approved By | Farooq Portelli - Director Corporate Support |

EXECUTIVE SUMMARY

Council handles alleged breaches of its Code of Conduct in accordance with its Code of Conduct Procedures. This report provides information regarding complaints received in the current reporting period, 1 September 2024 to 31 August 2025. It identifies growth in the number of complaints received, associated resource implications and action taken to deal with the complaints.

RECOMMENDATION

That Council receive and consider the report.

REPORT

There has been growth in the number of Code of Conduct complaints against councillors received by Council in the reporting period 1 September 2024 to 31 August 2025 (2024/25). Table 1 identifies and contextualises the growth in complaints against councillors compared to the period 1 September 2023 to 31 August 2024 (2023/24).

Table 1: Complaint numbers

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| 67 | LCC conduct complaints for 2024/25, to date of writing this report |
| 5 | LCC conduct complaints for 2023/24 |
| 38 | Most complaints recorded by a council, as reported by OLG for 2023/24 |
| 3 | Mean average complaints for 64 councils reported by OLG for 2023/24 |
| 1 | Median average complaints for 64 councils reported by OLG for 2023/24 |

The information reported by OLG for the 2023/24 period is available here: <https://www.olg.nsw.gov.au/public/about-councils/comparative-council-information/your-council-report/>.

The numbers of Code of Conduct complaints received to date in 2024/25 are much higher than in previous years. Council averaged between four and five code of conduct complaints against councillors per annum in the five year period from 2019/20 to 2023/24. They already represent an order of magnitude increase compared to the entirety of the previous period.

Table 2 sets out the status of the Code of Conduct complaints at the time of writing the report.

Table 2: Status of complaints received in 2024-2025

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| 14 | Complaints being investigated |
| 24 | Complaints referred to external conduct reviewers for preliminary assessment |
| 23 | Complaints under assessment by Governance team |
| 1 | Complaint dealt with by other action |
| 1 | Pecuniary interest complaint referred to OLG |
| 4 | Complaints declined at the outset |
| 67 | TOTAL |

There is a range of potential outcomes for each complaint. If a complaint proceeds to investigation and a breach is proved, then Council's governing body may sanction the Councillor under section 440G of the Local Government Act 1993. Subject to prior consultation with the Office of Local Government, Council may also refer a matter to the Deputy Secretary of OLG for consideration.

The disciplinary action that the Deputy Secretary of OLG can take for misconduct is set out in section 440I of the Local Government Act 1993 and includes suspension for a period not exceeding three months. The Deputy Secretary may also take alternative action, which includes referring a matter to the NSW Civil and Administrative Tribunal (NCAT) for consideration (Local Government Act 1993, section 440J). The sanctions available to the NCAT are broader and include suspension for a period not exceeding six months and disqualification for a period not exceeding five years (Local Government Act 1993, section 482A).

It is estimated that it will take until 31 July 2025 for Council's handling of the 67 complaints to be concluded. Matters that progress to OLG or that involve legal proceedings will likely take longer to resolve.

Table 3 summarises the costs of dealing with the 67 complaints. These costs will rise if complaints continue to be received.

Table 3: Cost estimates for the 46 complaints

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| Estimated staff time to date | \$67,000 |
| Estimated staff time to conclusion ¹ | \$92,800 |
| Code of conduct reviewers to date | \$42,586 |
| Estimated review costs to conclusion | \$144,000 |
| Total | \$346.386 |

The estimated staff time required by the Governance team to deal with the increased numbers of complaints is based on an average of:

- 3 days per week, Head of Governance,
- 3 days per week, Senior Governance Officer, and
- 0.5 day per week, General Counsel.

The estimate does not include time spent by the CEO or Director of Corporate Support in the assessment of complaints, nor time required from other staff to provide information to support the assessment of complaints.

The staff time required to deal with increased code of conduct complaints was unplanned. It has impacted on the delivery of other planned work and will continue to do so. There was no budget allocated for the costs of external conduct reviewers and these costs have had to be identified from other sources.

On 28 February 2025, Council's CEO referred all current complaints to the Deputy Secretary of the Office of Local Government pursuant to section 440H of the Local Government Act 1993. The referral has been made due to a concern that the code of conduct complaints are:

- imposing an undue and disproportionate cost burden on Council's administration of its Code of Conduct, and
- impeding the effective functioning of Council.

The Deputy Secretary has been asked to conduct an investigation under section 440H(1) of the Local Government Act 1993 in relation to the conduct complaints and to enter into a special complaints management arrangement under the Code of Conduct Procedures. If OLG agrees the approach, Council will suggest that all new complaints received during the investigation period are referred to OLG for assessment.

FINANCIAL IMPLICATIONS

Costs associated with this recommendation are outside of Council's current budget and long-term financial plan.

¹ Assuming staff time continues at the same level until 31 July 2025.

CONSIDERATIONS

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| Economic | The financial impacts of code of conduct complaints are outlined in the body of the report. |
| Environment | There are no environmental and sustainability considerations. |
| Social | The code of conduct complaints may indicate social and cultural issues or impacts. |
| Civic Leadership | The code of conduct complaints may impact delivery of Council's civic leadership objectives. |
| Legislative | <p>Local Government Act 1993</p> <p>Chapter 14 of the Local Government Act 1993 establishes a legislative framework for codes of conduct and their administration.</p> <p>Councillors, members of staff and council delegates must comply with the applicable provisions of:</p> <ul style="list-style-type: none"> • Council's Code of Conduct and Code of Conduct Procedures, and • the model codes, to the extent of any inconsistency between Council's codes and the model codes, or if something in the model codes is not in Council's codes (Local Government Act 1993, section 440(5) and 440AA(5)). <p>Chapter 14, Part 1, Division 3 of the Local Government Act 1993 defines misconduct and identifies how allegations and findings of misconduct are dealt with.</p> |
| Risk | The risk is deemed to be medium. |

ATTACHMENTS

Nil