

## CODE OF CONDUCT FOR BOARD / COMMITTEE MEMBERS

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Related Documents	
Applicable Legislation	ICAC Act 2012 Work Health and Safety Act 2012

### PURPOSE

Section 62 of the Local Government Act and this Code of Conduct are to be observed by all Fleurieu Regional Aquatic Centre (FRAC) Authority (the 'Authority') Board Members.

Authority Board Members must comply with the provisions of the Act and this Code in the performance of public office. It is the personal responsibility of Board Members, as public officers, to ensure that they are familiar with, and comply with, the standards in this Code of Conduct at all times.

### Part 1 – PRINCIPLES

Authority Board Members will:

- Commit to serve the best interests of the Authority and to discharge their duties conscientiously, to the best of their ability
- Work together constructively and uphold the values of honesty, integrity, accountability and transparency
- Make every endeavour to ensure that they have current knowledge of statutory, legislative and governance requirements of their role, and abide by this Code of Conduct.

### Part 2 - BEHAVIOURAL CODE

#### General behaviour

- Show commitment, respect for others and discharge duties conscientiously
- Act in a reasonable, just, respectful and non-discriminatory way when dealing with people
- Robust debate, conducted in a respectful manner, is not a breach of this Part.

#### Responsibilities as an Authority Board Member

- Comply with all FRAC policies, codes and resolutions
- Deal with information received in their capacity as Board Members in a responsible manner.

#### Relationship with fellow Authority Board Members

- Endeavour to establish and maintain a respectful relationship with all Board Members, regardless of differences of views and opinions
- Not bully or harass other Board Members.

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### Relationship with Authority Management staff

- Not bully or harass Authority Management staff
- Direct all requests for information to the Executive Officer
- Direct all requests for work or actions to the Executive Officer.

### Complaints

- Any person may make a complaint about a Board Member under the Behavioural Code
- Complaints about alleged breaches to the Behavioural Code should be brought to the attention of the constituent councils
- A complaint may be investigated and resolved in any manner the Board deems appropriate to this Part. This can include, but is not limited to:
  - a mediator or conciliator
  - with the assistance of officer/s of the constituent councils
  - an independent investigator.
- Some complaints may be considered to be trivial, vexatious or frivolous, and accordingly, may not be investigated
- A failure of a Board Member to cooperate with the process for handling alleged breaches of this Part may be referred for investigation under Part 3
- A failure of a Board Member to comply with a finding of an investigation under this Part, may be referred for investigation under Part 3
- Repeated or sustained breaches of this Part by the same Board Member may be referred, by resolution of the Authority, to the relevant authority as a breach of Part 3
- A breach of the Behavioural Code must be the subject of a report to a meeting of the Authority.

### Findings

If, following investigation under the complaints handling process, a breach of the Behavioural Code by an Elected Member is found, the Authority may, by resolution:

- Take no action, or
- Pass a censure motion in respect to the Board Member, and/or
- Request the Board Member to attend training on the specific topic found to have been breached, and/or
- Resolve to recommend to the constituent councils to remove or suspend the Board Member from a position within Authority (clause 3.7.5 of the Charter).

### Part 3 – MISCONDUCT

Failure by a Board Member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the *Local Government Act 1999*. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Constituent Councils, the Ombudsman, or the Office for Public Integrity. Alleged breaches of this Part made to the Constituent Councils or to the Office for Public Integrity may be referred to the Ombudsman for investigation under Section 263 of the *Local Government Act 1999*, by the Constituent Councils or the Independent Commissioner Against Corruption.

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A report from the Ombudsman that finds a Board member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Constituent Councils. The Council must pass resolution that gives effect to any recommendations received from the Ombudsman, following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

### Member Duties

Board Members must act with reasonable care, diligence and honesty at all times in the performance and discharge of their official duties.

### Gifts and Benefits

Board Members must not:

- Seek gifts or benefits or any kind
- Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Authority.

Board Members may, however, accept hospitality provided in the context of performing their duties, including:

- Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
  - Authority related events such as training sessions, workshops and conferences
  - Authority functions or events.

### Conflict of Interest

Board Members must be committed to making decisions without bias and in the best interests of the Authority, the constituent councils and the community, and must declare any conflict of interest (financial, material or perceived) prior to any Board Meeting of the Authority.

### Misuse of Resources

Board Members must use available resources effectively and prudently, and must not use resources, including services of Authority staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate. Board Members must not use public funds or resources in a manner that is irregular or unauthorised.

## AVAILABILITY OF CODE OF CONDUCT

This Code of Conduct will be available on the [Fleurieu Aquatic Centre Website](#).

### Appendices:

1. Local Government Act – Section 62 Extract
2. Criminal Matters

**APPENDIX 1 – LOCAL GOVERNMENT ACT – SECTION 62 EXTRACT**

*(1) A member of a council must at all times act honestly in the performance and discharge of official functions and duties.*

*(2) A member of a council must at all times act with reasonable care and diligence in the performance and discharge of official functions and duties.*

*(3) A member or former member of a council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the council.*

*Maximum penalty: \$10 000 or imprisonment for two years.*

*(4) A member of a council must not, whether within or outside the State, make improper use of his or her position as a member of the council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the council.*

*Maximum penalty: \$10 000 or imprisonment for two years.*

### APPENDIX 2 - CRIMINAL MATTERS

The matters within this appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for FRAC Authority (the 'Authority') Board / Committee Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of the Authority Board / Committee Members.

Alleged breaches of matters outlined in this appendix should be reported to the Office for Public Integrity in the first instance.

Acting in his or her capacity as a public officer, an Authority Board / Committee Member shall not engage in conduct, whether within, or outside the state, that constitutes corruption in public administration as defined by s.5 of the *Independent Commissioner Against Corruption Act*, including:

- An offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
  - bribery or corruption of public officers
  - threats or reprisals against public officers
  - abuse of public office
  - demanding or requiring benefit on basis of public office
  - offences relating to appointment to public office.
- Any other offence, including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act*, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.
- Any of the following in relation to an offence referred to in a preceding paragraph:
  - aiding, abetting, counselling or procuring the commission of the offence
  - inducing, whether by threats or promises or otherwise, the commission of the offence
  - being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence
  - conspiring with others to effect the commission of the offence.

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#### Document History

VERSION	DOCUMENT	ACTION	DATE
1.0	Approved version	FRAC Authority endorsement	29 April 2016
2.0	Revised version	FRAC Authority endorsement at meeting 18 May 2018	