



# Behaviour Complaints Committee Meeting

22 February 2023

Shire of Victoria Plains  
Council Chambers, Calingiri  
AND  
via E-Meeting Protocol

## MINUTES

Commencing – 1.40PM

---

## **DISCLAIMER:**

The recommendations contained in this document are officers' recommendations only and should not be acted upon until Council has resolved to adopt those recommendations.

The resolutions of Council should be confirmed by perusing the minutes of the Council meeting at which these recommendations were considered. Resolutions are not considered final until the minutes of the meeting are confirmed or advised in writing by the CEO or authorised person.

Members of the public should also note that they act at their own risk if they enact any resolution prior to receiving official written notification of Council's decision.

### Recording of Meeting

Members of the public are advised that meetings of Council are audio recorded to assist with ensuring an accurate record of the meeting is provided for the formal minutes of the meeting. In terms of the Privacy Act 1998 this may involve the recording of personal information provided at the meeting. The provision of any information that is recorded is voluntary, however if any person does not wish to be recorded they should not address or request to address the meeting. By remaining in this meeting, you consent to the recording of the meeting.

You are not permitted to record this meeting with any recording device, unless you have the express authorisation of the Council of the Shire of Victoria Plains.

### **E – Disclaimer**

It is the Presiding Member's responsibility to preserve order in the meeting and this can be more difficult in an eMeeting. Therefore, each Council Member must consistently and respectfully follow the Local Government's Meeting Procedures Local Law, any additional eMeeting guidance provided by the Local Government and support the Presiding Member in their conduct of the eMeeting.

The pace of an eMeeting should be slow and orderly. The following practices will help avoid confusion and support effective eMeetings:

Speak clearly and slowly, as connections may be distorted or delayed;

Always state your name to indicate to the Presiding Member that you wish to speak. Restate your name if the Presiding Member has not heard you at first;

In debate, only speak after the Presiding Member has acknowledged you. Then state your name, so that others know who is speaking;

Follow the Presiding Member's directions and rulings;

If you are unclear about what is happening in an eMeeting, immediately state your name to draw the Presiding Member's attention and enable you to then seek clarification from the Presiding Member;

Avoid looking for opportunities to call Points of Order; instead, politely and respectfully gain the Presiding Member's attention and explain any deviation from your Meeting Procedures, the Local Government Act or any other relevant matter.

---

Commonly-used abbreviations	
AAS / AASB	Australian Accounting Standard / Australian Accounting Standards Board
BF Act	Bush Fire Act 1954
BFB	Bush fire brigade
CEO	Chief Executive Officer
CDO	Community Development Officer
DBCA	Dept of Biodiversity, Conservation and Attractions
DFES	Dept of Fire and Emergency Services
DPLH	Dept of Planning, Lands and Heritage
DWER	Dept of Water and Environmental Regulation
EHO	Environmental Health Officer
EFT	Electronic Funds Transfer
FAM	Finance and Administration Manager
JSCDL	Parliamentary Joint Standing Committee on Delegated Legislation
LEMA	Local Emergency Management Arrangements
LEMC	Local Emergency Management Committee
LG Act	Local Government Act 1995
LGGC	WA Local Government Grant Commission
LPP	Local Planning Policy
LPS	Local Planning Scheme
MOU	Memorandum of Understanding
MRWA	Main Roads WA
NNTT	National Native Title Tribunal
OAG	Office of Auditor General
OCM	Ordinary Council Meeting
PTA	Public Transport Authority
RRG	Regional Roads Group
RTR	Roads to Recovery
SAT	State Administrative Tribunal
SEMC	State Emergency Management Committee
SGC	Superannuation Guarantee Contribution
SJAA	St John Ambulance Association
SWALSC	South West Aboriginal Land and Sea Council
WAEC	WA Electoral Commission
WALGA	WA Local Government Association
WSM	Works and Services Manager

## CONTENTS

1.	DECLARATION OF OPENING .....	5
1.1	Opening.....	5
1.2	Announcements by the Shire President .....	5
2.	REMOTE ATTENDANCE BY ELECTED MEMBERS .....	5
3.	RECORD OF ATTENDANCE .....	6
4.	DISCLOSURES OF INTEREST .....	7
5.	PUBLIC QUESTION TIME.....	7
5.1	Public Questions With Notice .....	7
5.2	Public Questions Without Notice .....	7
6.	REPORTS REQUIRING DECISION.....	8
6.1	Update on The Function of the Behaviour Complaints Committee .....	8
6.2	Matters Behind Closed Doors.....	12
6.2.1	Confidential Item - Setting of Date for Complaints BC-001/22 and 002/22 .....	14
7.	CLOSURE OF MEETING .....	15

CONFIRMED PUBLIC MINUTES

---



# MINUTES

Meeting of the Victoria Plains Shire Council  
Held in the Calingiri Shire Chambers and via E-meeting Protocol  
on 22 February 2023 commencing at 1.40PM

## 1. DECLARATION OF OPENING

### 1.1 Opening

The Shire President declared the meeting open at 1.40pm.

#### 2203-01 Committee Recommendation / Committee Resolution

**Moved: Cr D Lovelock**

**Seconded: Cr P Bantock**

That Cr N Clarke be **VOTED** as Presiding Member for the Behaviour Complaints Committee.

**CARRIED BY UNANIMOUS DECISION OF COMMITTEE**

### 1.2 Announcements by the Shire President

The Shire President reminded Elected Members that the meeting was being recorded for the purposes of Minute Taking and uploading of the recording to the Shire Website for public viewing and the meeting will be run in accordance with the Shire's *Meeting Procedures Law 2018*.

## 2. REMOTE ATTENDANCE BY ELECTED MEMBERS

**THAT:**

- Under regulation 14C (2)(b) of the Admin Regulations, the Shire President can approve Elected Member attendance by electronic means;
- In doing so, under r.14C (5) the Shire President must have regard as to whether the location that the Elected Member intends to attend the meeting, and the equipment intended to be used to attend the meeting, are suitable;
- Electronic means includes, as per r.14CA(2) by telephone or video conference;
- Suitable equipment would include an electronic device that can hold a Teams meeting, and perhaps, the use of headphones;
- In accordance with r.14CA (5) the Elected Member must declare that they are able to maintain confidentiality during the meeting. Under r.14CA(7), the declaration by the Elected Member is recorded in the minutes of the meeting;

- Summarily, according to Departmental guidance, a suitable location is one that is quiet and private e.g. a private room in your house. If there are other people at the location at the time of the meeting, an Elected Member may be required to close a door and wear headphones.

#### Approval to Attend and Declaration of Confidentiality

#### THAT:

**Cr D LOVELOCK** has been approved to attend the **BEHAVIOUR COMPLAINTS COMMITTEE** by electronic means as approved by the Presiding Member and that a declaration has been received regarding confidentiality and other requirements as noted in Section 2 herewith.

### 3. RECORD OF ATTENDANCE

Members present	Cr P Bantock (until 1.54pm) Cr N Clarke Cr J Kelly – Deputy (until 1.53pm) Cr G O’Brien – Deputy (until 1.53pm, re-joining at 2pm) Cr D Lovelock - via teleconference
Staff attending	CEO – Mr S Fletcher Council Support Officer – Ms J Klobas
Apologies	Nil
Approved leave of absence	N/A
Visitors	N/A
Members of the public	N/A

CONFIRMED PUBLIC MINUTES

**4. DISCLOSURES OF INTEREST**

*Refer – Local Government Act, Regulations, Code of Conduct, and Declaration Forms in Councillor folders.*

	<i>Type</i>	<i>Item</i>	<i>Person / Details</i>
3.1	Financial		Cr P Bantock declared a Financial interest in “ <i>Item 6.2.1, Confidential Item - Setting of Date for Complaints BC-001/22 and 002/22</i> ” due to ‘having declared a financial interest“ at 1.54pm.
3.2	Proximity		
3.3	Impartiality		

**5. PUBLIC QUESTION TIME**

*Refer – Local Government Act, Regulations, Local Law and Submission Form & Guidelines circulated.*

**5.1 Public Questions With Notice**

---

*Nil*

**5.2 Public Questions Without Notice**

---

*Nil*

CONFIRMED PUBLIC MINUTES

**6. REPORTS REQUIRING DECISION****6.1 Update on The Function of the Behaviour Complaints Committee**

<b>File reference</b>	
<b>Report date</b>	20 February 2023
<b>Applicant/proponent</b>	CEO (Complaints Officer)
<b>Officer disclosure of interest</b>	Nil
<b>Previous meeting references</b>	OCM 27 October 2021: 2110-14
<b>Prepared by</b>	Sean Fletcher, CEO
<b>Authorised by</b>	CEO
<b>Attachments</b>	
Attachment 1	Page
	Nil

**PURPOSE**

The purpose of this report is to update the Behaviour Complaints Committee on its status and function, including that of the Behaviour Complaints Officer (CEO).

**BACKGROUND**

The current membership of the Behaviour Complaints Committee was appointed by Council on 27 October 2021 in accordance with Sections 5.10 and 5.11A of the *Local Government Act 1995*, as follows:

**Members (3):**

1. Cr P Bantock
2. Cr N Clarke
3. Cr D Lovelock

**Deputy Members (4)**

1. All other Elected Members

The Committee's terms of reference (Council Policy 1.1B) under membership also states:

- The Delegated Authority Condition prescribes that if an appointed Committee Member is identified in the Complaint as either the Complainant or the Respondent, they are to recuse themselves from the Committee's Function by providing an apology. They are to be replaced for the duration of the handling of the subject Complaint by a Deputy Committee Member, selected by the Presiding Member of the Committee.
- Meetings are to be scheduled as required by the CEO or Behaviour Complaints Officer in consultation with the Committee Presiding Member. The Committee has yet to meet. At the first meeting (today's meeting), the presiding member will need to be elected.

The CEO will preside at the first meeting in accordance with the Local Government Act until a presiding member is chosen.



## COMMENT

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the *Local Government Act 1995* (the Act) for the purpose of dealing with Behaviour Complaints made under Division 3 of the Shire of Victoria Plain's Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

The extent of authority provided to the Behaviour Complaints Committee is specified in the relevant Delegated Authority, and includes:

- Dismissing a behaviour complaint in accordance with clause 13 of the Code of Conduct and providing reasons for any such dismissal;
- Making a Finding as to whether an alleged complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur [clause 12(3) of the Code of Conduct];
- Determining reasons for such a Finding;
- Where a Finding is made that a breach has occurred, determining:
  - To take no further action; or
  - Prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

The extent of authority of the Behaviour Complaints Committee is limited by Condition of the Delegated Authority.

## Committee Governance

### Function of Meetings

Complaints Behaviour Committee meetings are required to:

- be called and convened by the CEO, as required, in consultation with the Committee's Presiding Member;
- make the Committee Notice Papers and Agenda publicly available [s.5.94(p), s.5.96A(f)], with the exception of agenda content that relates to that part of the meeting which will be closed to members of the public under s.5.23(2) [Admin.r.14]; and
- make Committee minutes publicly available [s.5.94(n), s.5.96A(h)], with the exception of Minutes content that relates to that part of the meeting which was closed to the public or was determined as confidential under s.5.23(2).

### Role of CEO

The role of the CEO in this instance is as the Behaviour Complaints Officer. Under Policy 1.1A: Code of Conduct Behaviour Complaints Management, the Behaviour Complaints Officer has the following functions:

- The Behaviour Complaints Officer is authorised in accordance with clause 11(3) of the Code of Conduct to accept complaints and withdrawal of complaints.
- The Behaviour Complaints Officer is not an advocate for the complainant or the respondent. The Behaviour Complaints Officer provides procedural information and assistance to both Complainant and Respondent.
- The Behaviour Complaints Officer will liaise with and provide administrative support to a Complaint Assessor appointed under this Policy.

- The Behaviour Complaints Officer will liaise with the Local Government to facilitate the calling and convening of Council or Behaviour Complaints Committee meetings if required.
- In undertaking their functions, the Behaviour Complaints Officer will apply the Principles of this Policy.

**Further to the above (page 11 of Policy 1.1A):**

The Complaint Assessor will liaise with the Behaviour Complaints Officer to include the Complaint Report in the Agenda for a meeting of the Complaints Committee. The Behaviour Complaints Officer will be responsible for preparation of an Officer Report with the Complaint Report provided as a confidential attachment. The recommendations of the Complaint Report will be provided as the Officer Recommendations

The Agenda will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

**CONSULTATION**

Shire President  
Council Support Officer

**STATUTORY CONTEXT**

**Local Government Act 1995**

The Complaints Committee is a Committee of Council Members only in accordance with s.5.9(2)(a) of the Act i.e. elected members only. No staff or external persons can be on the committee.

**CORPORATE CONTEXT**

**Strategic Community Plan and Corporate Business Plan**

STRATEGIC PRIORITIES	WE KNOW WE ARE SUCCEEDING WHEN
<b>4. CIVIC LEADERSHIP</b>	
4.3 Proactive and well governed  Shire	Council is supported by a skilled team

Both the Behaviour Complaints Committee and the CEO must provide a process based on procedural fairness and natural justice.

**Policy**

As outlined in the background information and comments sections.

**Risk Management**

N/A – report is for information only

**FINANCIAL IMPLICATIONS**

Nil

## VOTING REQUIREMENTS

Absolute majority required: No

*Point of Order – Cr J Kelly is not permitted to ask questions as a Deputy as declared by the Presiding Member.*

<b>2203-02 Officer Recommendation / Committee Recommendation</b>
--

**Moved: Cr Cr P Bantock**

**Seconded: Cr D Lovelock**

That the Behaviour Complaints Committee:

**ACCEPTS** the update by the Behaviour Complaints Officer (CEO) regarding the Committee's functions, roles and responsibilities.

**CARRIED BY UNANIMOUS DECISION OF COMMITTEE**

CONFIRMED PUBLIC MINUTES

## 6.2 Matters Behind Closed Doors

<b>File reference</b>	
<b>Report date</b>	20 February 2023
<b>Applicant/proponent</b>	CEO (Complaints Officer)
<b>Officer disclosure of interest</b>	Nil
<b>Previous meeting references</b>	OCM 27 October 2021: 2110-14
<b>Prepared by</b>	Sean Fletcher, CEO
<b>Authorised by</b>	CEO
<b>Attachments</b>	
Attachment 1	Page
	Nil

### PURPOSE

The purpose of this report is to close the meeting to the public so that the Behaviour Complaints Committee can consider matters regarding BC 001/22 and BC 002/22.

### BACKGROUND

In accordance with section 5.23(2)(b) and (f)(i) the meeting is required to be dealt with behind closed doors.

Both of these sections refer to the personal affairs of a person and that if a matter disclosed, will impair the effectiveness of any lawful process regarding the contravention, or possible contravention, of a law.

### COMMENT

There are extenuating circumstances that require consideration regarding the setting of a time for the Committee to meet to consider complaints BC 001/22 and BC 002/22.

### CONSULTATION

Council Support Officer

### STATUTORY CONTEXT

#### Local Government Act 1995

As per the background section in this report.

### CORPORATE CONTEXT

Nil

### FINANCIAL IMPLICATIONS

Nil

### VOTING REQUIREMENTS

Absolute majority required: No

<b>2203-03 Officer Recommendation / Committee Recommendation</b>
--

**Moved: Cr P Bantock**

**Seconded: Cr D Lovelock**

That the Behaviour Complaints Committee **CLOSES** the meeting to the public in accordance with sections 5.23(2)(b) and (f)(i) of the *Local Government Act 1995* at 1.53pm.

**CARRIED BY UNANIMOUS DECISION OF COMMITTEE**

*Cr J Kelly and Cr G O'Brien withdrew from the meeting at 1.53pm.*

*Cr P Bantock due to having declared a financial interest in item 6.2.1. withdrew from the meeting at 1.54pm*

*Meeting adjourned at 1.57pm due to a technical error with Cr D Lovelock.*

*The meeting has been reconvened at 1.58pm with Cr D Lovelock's connection confirmed.*

*Cr G O'Brien re-joined the meeting at 2pm.*

*The Presiding Member advised Cr G O'Brien that a Deputy Member was required for today's meeting and as such, Cr G O'Brien was **NOMINATED** and accepted as a Deputy, for today's meeting only.*

CONFIRMED PUBLIC MINUTES

**6.2.1 Confidential Item - Setting of Date for Complaints BC-001/22 and 002/22**

<b>File reference</b>	
<b>Report date</b>	20 February 2023
<b>Applicant/proponent</b>	CEO (Complaints Officer)
<b>Officer disclosure of interest</b>	Nil
<b>Previous meeting references</b>	Nil
<b>Prepared by</b>	Sean Fletcher, CEO
<b>Authorised by</b>	CEO
<b>Attachments</b>	
Attachment 1	Page
	Nil

**VOTING REQUIREMENTS**

Absolute majority required: No

**2203-04 Officer Recommendation / Committee Recommendation****Moved: Cr D Lovelock****Seconded: Cr G O'Brien**

That the Behaviour Complaints Committee will **MEET** following reports prepared being drafted by the CEO, and a date being agreed upon by the CEO and Presiding Member.

**CARRIED BY UNANIMOUS DECISION OF COMMITTEE**

**VOTING REQUIREMENTS**

Absolute majority required: No

**2203-04 Officer Recommendation / Committee Recommendation**

**Moved: Cr D Lovelock**

**Seconded: Cr G O'Brien**

That the Behaviour Complaints Committee will **MEET** following the CEO preparing reports on the matter, and a date being **AGREED UPON** by the CEO and Presiding Member.

**CARRIED BY UNANIMOUS DECISION OF COMMITTEE**

*The Resolution was taken as read aloud.*

**7. CLOSURE OF MEETING**

There being no further business, the Presiding Member declared the meeting closed at 2.04PM.

**CERTIFICATION**

These minutes were confirmed at the Behaviour Complaints Committee; Council Meeting held on 19<sup>th</sup> April 2023.

Signed *[Signature]*  
(Presiding member at the meeting which confirmed the minutes)

Date 26/4/2023

**Council Minutes are unconfirmed until they have been adopted at the following meeting of Council.**