



Eastern Waste Management Authority

Trading as

East Waste

***Director
Complaint Handling Policy***

Adopted: May 2013

This Policy sets out the arrangements to assist Directors in complying with the Code of Conduct for Directors, and to investigate and address any complaints relating to the Code of Conduct.

Legislative context

The Eastern Waste Management Authority (the Authority) is a regional subsidiary established under the Local Government Act (the Act) established by the following Constituent Councils for the collection and disposal of waste:

- Adelaide Hills Council
- City of Burnside
- City of Campbelltown
- City of Norwood, Payneham and St Peters
- City of Mitcham
- Corporation of the Town of Walkerville.

In accordance with Schedule 2, Part 2, Clause 23 (Board Members' duty of care) of the Act, the Authority has adopted a Code of Conduct for Directors which expresses the performance standards of a Director in undertaking official functions and duties.

The Director Complaint Handling Policy sets out the arrangements to assist Directors in complying with the Code of Conduct, and to investigate and address any complaints relating to the Code of Conduct.

Principle

The Policy is based on the principle of procedural fairness. All deliberations by the Authority and the independent assessment process in regard to an alleged breach of the Code of Conduct will be conducted in confidence, maintained as confidential until finally determined, and subject to section 90 of the Local Government Act.

Alleged illegal behaviour

An allegation of illegal behaviour will be referred to the appropriate authority for investigation in accordance with the provisions of that authority.

The Authority may be advised of the outcome after the investigating authority has completed its investigation.

Alleged breach of the Code of Conduct

(1) Lodgement of complaint

A complaint made by any person that relates to an alleged breach of this Code of Conduct must:

- be made in writing (assistance will be provided to the complainant if required);
- identify the provision(s) of this Code which it alleges have been breached and provide all available evidence that supports the allegation(s) of breach; and
- be delivered to the General Manager.

Receipt of the complaint will be acknowledged to the complainant within 3 working days of receiving the complaint.

The Director about whom the complaint has been made will be notified within 3 working days of receipt of the complaint and of its substance.

The complaint will be treated with strict confidentiality until such time as it has been fully investigated and finally determined. The complainant will also be expected to observe confidentiality.

On receipt of a complaint the Chair or the Deputy Chair, must bring the fact of the complaint but not the detail of the allegations to the attention of the Authority at the next formal meeting of the Authority and it is to be received by the Authority in confidence.

(2) Assessment of complaint

The General Manger will manage the investigation of the complaint on behalf of the Authority by, within ten days, obtaining the services of a suitably qualified Independent Assessor to conduct the investigation.

The following processes will be followed with respect to assessment and investigation of complaints depending on the level of seriousness:

(a) The Independent Assessor may determine that no further action should be taken with respect to an alleged breach where the Independent Assessor determines that the allegation is frivolous or vexatious. In this case the Independent Assessor will prepare a report to that effect and provide it to the General Manager for presentation to the next scheduled meeting of the Board.

(b) If the Independent Assessor identifies the allegation is of illegal behaviour then there will be no further investigation and it will be referred to the appropriate authority.

(c) If the Assessor identifies issues of substance that warrant further investigation:

(i) the investigation will be a thorough assessment of the available evidence regarding the alleged breach, the relevant circumstances prevailing at the time and any other factors deemed relevant to making a fair and reasonable judgement about the matter.

(ii) the Director the subject of the allegation(s) will be provided with a reasonable opportunity to explain his/her actions and to make a written submission on the allegations.

(iii) the Independent Assessor must provide the General Manager with a final written report on the investigation undertaken within 21 days of receiving written submissions from the person who made the complaint and/or the Director who is the subject of the complaint, or such longer period as the Board may determine.

(iv) if the final report is not received from the Independent Assessor within 21 days the Authority will ascertain from the Independent Assessor the time frame within which the Authority may expect the final report. If the Independent Assessor forms the view that additional time will be needed to conclude the investigation and finalise the report the Independent Assessor should bring this to the attention of the Authority at the earliest convenience, but at the very least, before the expiration of the 21 day timeframe.

(v) if the final report makes recommendations that are punitive in nature and recommends the application of penalties, the Director, the subject of the allegation(s), will be provided with a reasonable opportunity to comment in writing upon the contents and findings contained in the report and on the appropriateness of the proposed penalty. Such comment must be taken into account by the Authority. The complainant is not able to comment, as procedural fairness attaches to the Director and not the complainant.

(vi) the report delivered to the Authority is final. There is no right of appeal on the report of the Independent Assessor.

(vii) the final report will be presented at a Authority meeting in confidence.

(viii) after receipt of the final report from the Independent Assessor, the Authority must convey to the Director who is the subject of the complaint and to the person who made the complaint, a copy of the investigation report and a copy of the Authority's resolution in relation to the report.

(ix) the final report must be provided to both the Board Member and the complainant concerned.

(x) the final report may be subject to an order of confidentiality, with the exception of the Director and the complainant.

(3) Penalties

(a) On receipt of the final report of the Independent Assessor, the Authority will determine an appropriate penalty should there be a finding that there has been a breach of this Code of Conduct.

(b) The Authority has the power to impose the following penalties in relation to a finding of a breach of the Code of Conduct.

- (i) censure the Director;
- (ii) request a public apology from the Director in relation to the breach;
- (iii) recommend the Director undertake a particular training course or receive appropriate instruction relevant to the breach;
- (iv) the Board may by a two-thirds majority vote of the Directors present (excluding the Director subject to the complaint) make a recommendation to the relevant Constituent Council requesting the Constituent Council to terminate the appointment of a Director that it has appointed or to all of the Constituent Councils to terminate the appointment of the Director appointed jointly by the Constituent Councils who is not a Member or officer of a Constituent Council for:
 - any behaviour of the Director which in the opinion of the Board amounts to impropriety;
 - serious neglect of duty in attending to his/her responsibilities as a Director;
 - breach of fiduciary duty to the Authority or the Constituent Council(s);
 - breach of the duty of confidentiality to the Authority and/or the Constituent Council(s);
 - breach of the conflict of interest provisions; or
 - any other behaviour which may discredit the Authority.

(c) The Authority may make a public announcement of the complaint made against the Director, the determination and the penalty imposed on the Board Member.

(4) Informing the relevant Constituent Council

The relevant Constituent Council(s) will be informed of the outcome of the assessment

Governance

The Policy will be reviewed every two years by the Board. However the Board has the discretion to review the Policy at any time to take into account any significant new information, legislative, or organisational change which may warrant an amendment to this document.

A review of the Policy is conducted in consultation with the Constituent Councils.

Copies of the Policy are available from the East Waste website www.eastwaste.com.au or the Authority's office at 1 Temple Court Ottoway SA 5013.

This Policy was approved by the Board at its meeting on 2 May 2013

Review history

Nil