

Special Council Meeting Tuesday 24 October 2023 Attachments

4.5 Appointment of delegates and representatives to external organisations and committees of council.....	2
4.5.1 Elected- Member- Prospectus-2023-(I D-604251).....	2
4.5.2 Behaviour- Complaints- Policy.....	8
4.5.3 Arts Culture and Events Committee.....	20
4.5.4 Audit and Governance Committee.....	23
4.5.5 BLEMC ToR.....	30

Elected Member Prospectus

Becoming a Zone Delegate or State Councillor

2023

About WALGA

WALGA is an independent, member-based, not for profit organisation representing and supporting the WA Local Government sector.

Our purpose is to leverage the collective strength and influence of the Local Government sector for the benefit of WA Local Governments and their communities.

What does WALGA do?

WALGA provides value to Member Local Governments by advocating and facilitating sector solutions and policy, and by delivering member-centric, quality services.

How does WALGA work?

WALGA employs approximately 100 staff across the areas of:

- Policy, including asset management, community, emergency management, environment, infrastructure, planning, roads and waste;
- Services and advice including governance, industrial relations, procurement, recruitment, supplier panels, tender management, and training for officers and Elected Members; and
- Operational functions including events, finance, human resources, information technology, marketing and media management.

How is WALGA funded?

A number of components contribute to the WALGA operational budget. As with most member-based organisations, WALGA has an annual Membership fee paid by all Member Local Governments. To ensure fairness, the annual Membership fee is indexed to the size and capacity of each Local Government. It contributes less than 10 per cent of WALGA total turnover.

WALGA secures additional funding through charges to State and Federal departments and agencies for the administration of grants; fee-for-services selected for use by Member Local Governments; and returns from supplier contracts as part of group buying arrangements that guarantee lowest market rates for Members.

Role of Zones

State Councillors are elected to State Council from one of 17 Zones, which are groupings of Local Governments convened together on the basis of population, commonalities of interest and geographical alignment.

The relationship between State Council and Zones within the Western Australian Local Government Association is a critical one in the political representation of Local Government at the State and Federal levels.

Zones have an integral role in shaping the political and strategic direction of WALGA. Not only are Zones responsible for bringing relevant local and regional issues to the State Council decision making table, they are a key player in developing policy and legislative initiatives for Local Government.

WALGA's Constitution outlines that the functions of Zones are to:

- elect one or more State Councillors;
- consider the State Council agenda;
- provide direction and feedback to their State Councillor; and
- any other function deemed appropriate by the Zone.

Additional activities undertaken by Zones include:

- developing and advocating on positions on regional issues affecting Local Government;
- progressing regional Local Government initiatives;
- identifying relevant issues for action by WALGA;
- networking and information sharing; and
- contributing to policy development through policy forums and other channels.

Zones provide input into State Council's advocacy efforts in two critical ways:

1. by passing resolutions on items contained in the State Council Agenda; and
2. by generating new Agenda items for consideration by State Council.

Zone Motions

To generate new Agenda items for consideration by State Council, a Zone may pass a resolution requesting that WALGA take action. For example, a Zone motion may request WALGA to investigate an issue, undertake advocacy, or develop policy.

It is best practice that Zone motions are submitted with the backing of a resolution of Council. However, as Zones are self-governing and autonomous, individual Zone Delegates may submit motions for the Zone to consider.

It is recommended that the Zone be advised whether a motion to be considered has been endorsed by Council or has been submitted by an individual Zone Delegate.

Role of a Zone Delegate

Zone Delegates are elected or appointed to represent their Council on the Zone and make decisions on their Council's behalf at the regional level.

In fulfilling their role as Council's representative, the Zone Delegate should give regard to their Council's positions on policy issues.

There is also an expectation that Zone Delegates will report back to their Council about decisions made by the Zone.

Role of State Council

WALGA is governed by a President and a 24-member State Council, elected from the Local Government sector.

Each State Councillor represents a WALGA Zone. There are 5 metropolitan Zones and 12 country Zones. All 139 WA Local Governments are invited to be Members of WALGA and a Zone.

Elected Members are able to nominate to represent their Local Government on their Zone and in turn, through the Zone election process, to represent the Zone on State Council.

State Council's primary role is to govern the successful operation of WALGA and broadly includes:

- Strategy formulation and policy making;
- Development, evaluation and succession of the Chief Executive Officer;
- Monitoring financial management and performance, including the annual budget;
- Monitoring and controlling compliance and organisational performance;
- Ensuring effective identification, assessment and management of risk;
- Promoting ethical and responsible decision making;

- Ensuring effective communication and liaison with members and stakeholders; and;
- Ensuring an effective governance framework and culture.

Role of a State Councillor

State Councillors have ultimate responsibility for the overall successful operations of WALGA.

The principal roles of State Councillors relate to:

- policy positions and issues;
- the strategic direction of WALGA;
- financial operations and solvency; and
- all matters as prescribed by law.

State Councillors, as directors of a board, are required to act consistently in the “best interests of the organisation as a whole”. This effectively means that the duties of a State Councillor are owed to all Member Local Governments.

State Councillors are also expected to be champions for WALGA and for the Local Government sector.

Commitment of the Role of State Councillor

State Councillors are expected to attend State Council meetings, of which there are five ordinary meetings per year. As State Councillors are elected to State Council by their Zone, State Councillors would also be expected to attend and play a prominent role in Zone meetings, including reporting back to their Zone about WALGA’s activities and advocacy.

State Councillors are expected to attend WALGA events and functions and play an active role in representing the Local Government sector, and contributing to policy debates and other forums.

State Council operates a number of internal and external committees and policy forums. There is an expectation that State Councillors play a leading role in serving on State Council’s committees on behalf of WALGA and the Local Government sector.

State Councillors are paid an annual sitting fee and expenses incurred to attend State Council meetings are reimbursable.

Opportunities for State Councillors

State Councillors, as board members of WALGA, are key leaders in the Local Government sector in Western Australia. Not only do State Councillors represent their community on their Council, they also have the opportunity to represent their region (Zone) and the Local Government sector at the state level.

All State Councillors will be appointed to a Policy Team or the Finance & Services Committee. Policy Teams provide State Councillors with hands-on exposure to development of policy positions and submissions to Government on behalf of the WA Local Government sector. The Chair of the relevant Policy Team will also have the opportunity to attend meetings with Government Ministers to advocate on behalf of Local Government.

Become Involved

We hope that involvement in your Association – by representing your Council on the Zone, or representing your Zone on State Council – will be an enriching and rewarding experience.

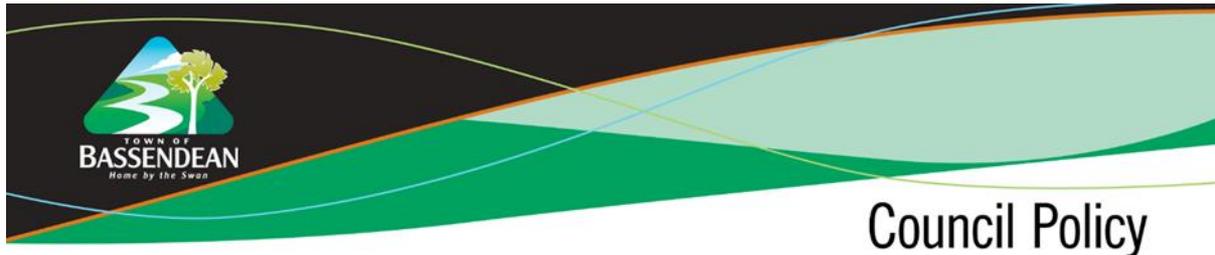
Consider nominating for a position on the Zone or State Council and play a role in shaping policy and advocacy on behalf of Local Government in Western Australia!

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Behaviour Complaints Policy – Code of Conduct Council Members, Committee Members and Candidates

Policy Objective

To establish, in accordance with Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and the Town of Bassendean's Code of Conduct for Council Members, Committee Members and Candidates the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Town's Code of Conduct for Council Members, Committee Members and Candidates.

To give effect to the Town's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

Policy Scope

This Policy applies to complaints made in accordance with Clause 11 of the Town's Code of Conduct for Council Members, Committee Members and Candidates.

This Policy applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

A breach of the Rules of Conduct under Division 4 of the Code of Conduct, is a minor breach and is not the subject of this Policy.

Complaints that are deemed outside of the scope of this policy, namely –

- dissatisfaction with a Council or Committee member's lawfully made decisions;
- dissatisfaction with a Council or Committee member's performance of his or her role;
- minor breaches under s. 5.105(1) of the Act;
- serious breaches under s. 5.114 of the Act;
- corruption allegations; or
- personal disagreements;

will not be dealt with under the policy.

Policy Statement

Definitions

Act means the *Local Government Act 1995*.

Complaints Committee means the Committee established by the Council in accordance with s.5.8 of the Act for the purpose of dealing with Complaints. The role of the Complaints Committee is outlined in Part 2.3 of this Policy.

Complaints Officer means a person authorised in writing *[by Council resolution]* under clause 11(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Complaints Officer is addressed in Part 2.1 of this Policy.

Breach means a breach of Division 3 of the Town's Code of Conduct for Council Members, Committee Members and Candidates.

Candidate means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act, but does not include a Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

Candidate Complaint means a Complaint alleging a Breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

Code of Conduct means the Town's Code of Conduct for Council Members, Committee Members and Candidates.

Committee means a committee of Council, established in accordance with s.5.8 of the Act.

Committee Member means a Council Member, employee of the Town of Bassendean or other person who has been appointed by the Council to be a member of a Committee, in accordance with s.5.10(1) of the Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

Complaint means a complaint submitted under Clause 11 of the Code of Conduct.

Complainant means a person who has submitted a Complaint in accordance with this Policy.

Complaint Assessor means a person appointed by the Complaints Officer in accordance with Part 2.2 and Part 3.8 of this Policy.

Complaint Documents means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

Complaint Form means the form approved under clause 11(2)(a) of the Code of Conduct [by Council resolution or by the CEO exercising delegated authority].

Council means the Council of the Town of Bassendean.

Council or Committee Meeting means a formal meeting of the Council or a Committee that is called and convened in accordance with the Act. It does not include informal meetings, such as workshops or briefings.

Council Member means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.

Finding means a finding made in accordance with clause 12(1) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

Plan means a Plan that may be prepared and implemented under clause 12(4)(b) of the Code of Conduct, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.

Response Documents means the response provided by the Respondent to the Complaint, and includes any supporting information or evidence that is supplied.

Town means the Town of Bassendean.

1. Principles

1.1. Procedural fairness

- (a) The principles of procedural fairness, or natural justice, will apply when dealing with a Complaint under this Policy. In particular:
- the Respondent will be afforded a reasonable opportunity to be heard before any findings are made, or a plan implemented;
 - the decision maker should be objective and impartial, with an absence of bias or the perception of bias; and
 - any findings made will be based on proper and genuine consideration of the evidence.

1.2. Consistency

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each Complaint considered and determined on its merits, similar circumstances will result in similar decisions and will be applied consistently.

1.3. Confidentiality

- (a) The Town will take all reasonable steps to maintain confidentiality when dealing with the Complaint, in order to protect both the Complainant and Respondent.

- (b) Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely, and must not disclose or inappropriately use this information.
- (c) Complainants will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the progress of their complaint.
- (d) The details of a complaint and the processes undertaken in connection with a complaint including the referral to a Complaint Assessor are confidential matters. Parties to the complaint and those involved in the processes undertaken in connection with a complaint, must not disclose details of the complaint, unless lawfully required to do so, or until the Complaints Committee has made a formal finding of a breach in respect of the complaint.
- (e) Complainants should be aware that Complaint Documents may be subject to an FOI request. The Town will consult with a complainant before any documents are released and advise of any relevant exemptions that may apply.

1.4. Accessibility

- (a) The Town will ensure that information on how to make a complaint, including this Policy, is available at the Town's Administration Building and on the Town's website.
- (b) The Town will make information available in alternative formats if requested.
- (c) Any person wishing to make a complaint may contact the Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

2. Roles

2.1. Complaints Officer

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

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

2.2. Complaint Assessor

- (a) The Complaint Assessor is appointed by the Complaints Officer in accordance with Part 3.8 of this Policy.
- (b) The Complaint Assessor is an impartial third party who will undertake the functions specified in this Policy. In undertaking their functions, the Complaint Assessor will apply the Principles of this Policy.
- (c) The Complaint Assessor will liaise with the Complaints Officer to manage the administrative requirements of dealing with the Complaint in accordance with this Policy.

2.3. Complaints Committee

- (a) The Complaints Committee is a Committee of Council established in accordance with s.5.8 of the Act for the purpose of dealing with Complaints.
- (b) The Complaints Committee is a Committee of Council Members only. The membership and purpose of the Complaints Committee is outlined in the Complaints Committee Terms of Reference.

3. Procedure

3.1. Making a complaint

- (a) Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Code of Conduct [*clause 11(1) of the Code of Conduct*].
- (b) A Complaint must be made within one (1) month after the alleged Breach [*clause 11(2)(c) of the Code of Conduct*].
- (c) A Complaint must be made by completing the Complaint Form in full and providing the completed forms to the Complaints Officer.
- (d) A Complaint must be made in accordance with the Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached.
- (e) A Complaint is required to include the name and contact details of the Complainant. Anonymous complaints cannot be accepted.
- (f) Where a Complaint Form omits required details, the Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

- (g) Where a Complaint is made more than 1 month after the alleged breach, the Complaints Officer will give the Complainant written notice that the Complaint cannot be made *[clause 11(2)(c) of the Code of Conduct]*.

3.2. Candidate Complaints

- (a) A Complaint in relation to a Candidate must be made in accordance with 3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.
- (b) Within 10 working days after receiving a Candidate Complaint, the Complaints Officer will provide written notice:
- To the Complainant confirming receipt, and advising of the procedure for candidate complaints; and
 - To the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.
- (c) No action will be taken until the results of the election are declared by the Returning Officer. If the respondent is elected, then the complaint will be dealt with in accordance with this Policy. Timeframes that would otherwise commence on the receipt of a Complaint will be taken to commence on the election date.
- (d) If the Respondent is not elected, the Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with *[clause 15(1) of the Code of Conduct]*.

3.3. Withdrawing a Complaint

- (a) A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint *[clause 14 of the Code of Conduct]*.
- (b) A Complainant may withdraw a Complaint by advising the Complaints Officer in writing that they wish to do so.
- (c) After receiving a written withdrawal of the Complaint, the Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

3.4. Notice to Complainant

- (a) Within 10 working days after receiving a Complaint, the Complaints Officer will provide written notice to the Complainant that:
- confirms receipt of the Complaint;
 - outlines the process that will be followed and possible outcomes;
 - explains the application of confidentiality to the complaint;
 - includes a copy of this Policy; and

- if necessary, seeks clarifications or additional information.
- (b) If the Complaint Form indicates that the Complainant agrees to participate in Alternative Dispute Resolution, the Complaints Officer will advise the Complainant of the process in accordance with Part 3.6 of this Policy.

3.5. Notice to Respondent

- (a) Within 14 days after receiving a Complaint, the Complaints Officer will provide written notice to the Respondent that:
- advises that a Complaint has been made in accordance with the Code of Conduct and this Policy;
 - includes a copy of the Complaint Documents;
 - outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
 - includes a copy of this Policy; and
 - if applicable, advises that further information has been requested from the Complainant and will be provided in due course.
- (b) If the Complainant has agreed to participate in Alternative Dispute Resolution, the Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 3.6 of this Policy.

3.6. Alternative Dispute Resolution

- (a) The Town recognises that Alternative Dispute Resolution may support both parties reach a mutually satisfactory outcome that resolves the issues giving rise to the Complaint. Alternative Dispute Resolution requires the consent of both parties to the Complaint and may not be appropriate in all circumstances.
- (b) To commence the process, the Complaints Officer will, as the first course of action upon receiving a complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution. If both parties agree to participate in Alternative Dispute Resolution, the Complaints Officer will pause the formal process.
- (c) The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the Complaint, in accordance with Part 3.3 of this Policy. For example, an offer by a Respondent to issue a voluntary apology in response to a Complaint, even in the absence of a request from the Complainant, qualifies for consideration as Alternative Dispute Resolution.
- (d) If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of a third party who is providing assistance to the Local Government, such as a facilitator or mediator.

- (e) If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the Complaint, the Complaints Officer will resume the formal process required under this Policy.

3.7. Order of Complaints

Complaints will normally be dealt with in the order in which they are received. If more than one Complaint is received that relates to the same alleged behaviour, the Complaints Officer may decide to progress those Complaints concurrently.

3.8. Appointment of Complaints Assessor

- (a) If Alternative Dispute Resolution is not commenced, is terminated or does not achieve an agreed outcome resulting in the withdrawal of the Complaint, the Complaints Officer will appoint a suitably qualified and experienced Complaint Assessor, in accordance with the Town's Purchasing Policy.
- (b) The Complaints Officer will endeavour to appoint a Complaint Assessor within a reasonable period. The Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

3.9. Search of Local Government Records

- (a) The Complaint Assessor may request the Complaints Officer to search for any relevant records in the Town's Record Management System.
- (b) In particular, if the behaviour is alleged to have occurred at a Council or Committee Meeting, the Complaints Officer will be requested to identify any Local Government records that provide evidence that may support a decision as to whether:
- the behaviour occurred at a Council or Committee Meeting,
 - the behaviour was dealt with by the person presiding at the meeting, and/or
 - the Respondent has taken remedial action in accordance with the Town of Bassendean's Meeting Procedures Local Law 2020.
- (c) The Complaint Assessor must provide the Respondent with a copy of any records that are identified. In addition, where a clarification or additional information has been sought from the Complainant by either the Complaints Officer or the Complaint Assessor, copies must also be provided to the Respondent.

3.10. Assessment of the Complaint

- (a) The Complaint Assessor will undertake an assessment of the Complaint in accordance with the process outlined in the Notices given under Part 3.4 and Part 3.5 of this Policy.

- (b) The Complaint Assessor must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions, or drafting the Complaint Report or recommendations.

3.11. Complaint Report

- (a) The Complaint Assessor will prepare a Complaint Report that will:
- outline the process followed, including how the Respondent was provided with an opportunity to be heard;
 - include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments; and
 - include recommendations on each decision that may be made by the Complaints Committee; and
 - include reasons for each recommendation, with reference to Part 4 of this Policy.
- (b) A draft copy of the Complaint Report will be provided to the Respondent prior to being finalised by the Complaint Assessor, to enable the Respondent to make submissions.
- (c) If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.
- (d) The Complaint Assessor will liaise with the Complaints Officer to include the Complaint Report in the Agenda for a meeting of the Complaints Committee. The 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.

3.12. Complaints Committee Meeting

- (a) 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.
- (b) The Complaints Committee will consider the Complaint Report and attachments and give due regard to the recommendations.
- (c) In accordance with Regulation 11(d)(a) of the *Local Government (Administration) Regulations 1996*, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

- (d) If the Complaints Committee dismisses a Complaint, the Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause 13(2) of the Code of Conduct.
- (e) If the Complaint is not dismissed, the Complaints Committee will consider the Complaint and make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause 12 of the Code of Conduct and Part 4.3 of this Policy.
- (f) If the Complaints Committee finds that the alleged Breach **did not** occur, the Complaints Officer must give the Complainant and the Respondent written notice of the Finding and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct.
- (g) If the Complaints Committee finds that the alleged breach **did** occur, the Committee will decide whether to take no further action in accordance with clause 12(4)(a) of the Code of Conduct or prepare a plan to address the behaviour in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy.
- (h) If the Complaints Committee decides to take no further action, the Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct.
- (i) If the Complaints Committee decides to prepare a Plan, the Committee will first consult with the Respondent in accordance with clause 12(5) of the Code of Conduct. The Complaints Committee will consider any submissions made by the Respondent before preparing and implementing a Plan.

3.13. Compliance with Plan Requirement

- (a) The Complaints Officer will monitor the actions in timeframes set out in a Plan.
- (b) Failure to comply with a requirement included in a Plan is a minor breach under section 5.105(1) of the Act and clause 23 of the Code of Conduct.
- (c) The Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

4. Decision Making

4.1. Objective and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in Part 1 of this Policy.

4.2. Dismissal

- (a) The Complaints Committee must dismiss a Complaint in accordance with clause 13(1)(a) and (b) of the Code of Conduct if it is satisfied that -
 - (i) the behaviour to which the Complaint relates occurred at a Council or Committee Meeting; and
 - (ii) either —
 - (a) the behaviour was dealt with by the person presiding at the meeting; or
 - (b) the Respondent has taken remedial action in accordance with the Town of Bassendean's Meeting Procedures Local Law 2020.

4.3. Finding

- (a) A Finding that the alleged breach has occurred must be based on 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*].
- (b) This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 3 of the Code of Conduct.

4.4. Action

- (a) In deciding whether to take no further action, or prepare and implement a Plan, the Complaints Committee may consider:
 - the nature and seriousness of the breach(es);
 - the Respondent's submission in relation to the contravention;
 - whether the Respondent has breached the Code of Conduct knowingly or carelessly;
 - whether the Respondent has breached the Code of Conduct on previous occasions;
 - likelihood or not of the Respondent committing further breaches of the Code of Conduct;
 - personal circumstances at the time of conduct;
 - need to protect the public through general deterrence and maintain public confidence in Local Government; and
 - any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

4.5. Plan Requirements

- (a) The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following:
 - engage in mediation;
 - undertake counselling;

- undertake training;
 - take other action the Complaints Committee considers appropriate (e.g. an apology).
- (b) The Proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct.
- (c) The Proposed Plan may also outline:
- the actions to be taken to address the behaviour(s);
 - who is responsible for the actions;
 - any assistance the Local Government will provide to assist achieve the intent of the Plan; and
 - a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

5. Unreasonable or Vexatious complaints

- (a) There may be some complainants who disagree with the action or finding taken in relation to their complaint. They may continue to contact the Town about the same issue.
- (b) Where a complaint has been considered by the Complaints Officer and a finding made by the Complaints Committee in accordance with this Policy, but the complainant refuses to accept the findings and actions taken, the Complaints Officer may advise the complainant in writing, that no further consideration will be given to complaints, that are the same, substantially similar, or which do not raise any new matters.

Document Control box			
Document Responsibilities:			
Owner:	Chief Executive Officer	Owner Business Unit:	Office of the Chief Executive Officer
Inception Date:	OCM-16/6/21	Decision Maker:	Council
Review Date:	Annual	Repeal and Replace:	N/A
Compliance Requirements:			
Legislation:	<i>Local Government Act 1995</i>		



TOWN OF
Bassendean

**TERMS OF REFERENCE
ARTS, CULTURE AND EVENTS COMMITTEE**

1.0 Objectives

The objectives of the Committee are to:

- Provide high-level strategic direction regarding matters relating to the community arts, culture and/or events that assist fostering strong community expression, identity and pride.
- Provide advice on the formulation and adoption of the annual budget, as it relates to matters of arts, culture and/or events.
- Review and provide feedback on any proposed strategies, plans or policies that relate to matters of arts, culture and/or events.
- Provide advice on the acquisition and decommissioning of art works under Council's *Art Acquisition, Management and Decommissioning Policy*.
- Review and provide feedback on the procurement of public art, either under Local Planning Policy 15 – Public Art or via municipal funding.

2.0 Membership

- 2.1 Membership of the Committee shall be three Town of Bassendean Councillors; one of which is to be appointed as Presiding Member and is to ensure that the business of the Committee is conducted in accordance with the *Town of Bassendean Meeting Procedures Local Law 2020*.
- 2.2 Town staff as determined by the Chief Executive Officer, including an appointed Executive Officer and minute taker to provide advice and administrative support to the Committee. These representatives do not have voting rights.
- 2.3 Community representatives may be invited by the Committee to attend a meeting to provide information and advice to the Committee. This is on an as needs basis and these representatives do not have voting rights.
- 2.4 In accordance with section 5.11 of the Act, membership of the Committee is for up to two years, with the Committee and associated membership ceasing at the next Local Government ordinary election.

3.0 Meetings

- 3.1 The Committee will meet quarterly. Notice of meetings and an agenda will be given at least seven (7) days prior to each meeting.
- 3.2 A Quorum for a meeting of the Committee is at least two members.
- 3.3 Each member has one vote. Decisions of the Committee are made by simple majority and where votes are equally divided, the presiding member casts the deciding vote.
- 3.4 The minute taker is responsible for taking minutes and preparing them for publication. The unconfirmed minutes of the meeting are submitted to Council at the next available Ordinary Council Meeting.

4.0 Delegations and Powers

- 4.1 The Committee has no delegated authority under the *Local Government Act 1995*, no authority to expend funds and decisions of the Committee do not bind the Council and the Town of Bassendean.
- 4.2 The Committee is to operate within the bounds of the *Local Government Act 1995*.
- 4.3 Neither the Committee nor its members shall impinge on operational aspects of the Town's functions.
- 4.4 Pursuant to section 2.8(d) of the *Local Government Act 1995*, the Mayor is authorised to speak on behalf of the Local Government. The Chief Executive Officer may speak on behalf of the Local Government by approval of the Mayor. Members of the Committee may not speak, issue public statements or publish on social media on behalf of the Committee or Council, without the approval of the Mayor.

5.0 Amendment

A resolution of Council is required to amend the Terms of Reference. The Committee may make recommendations to Council, from time to time, to amend the Terms of Reference.

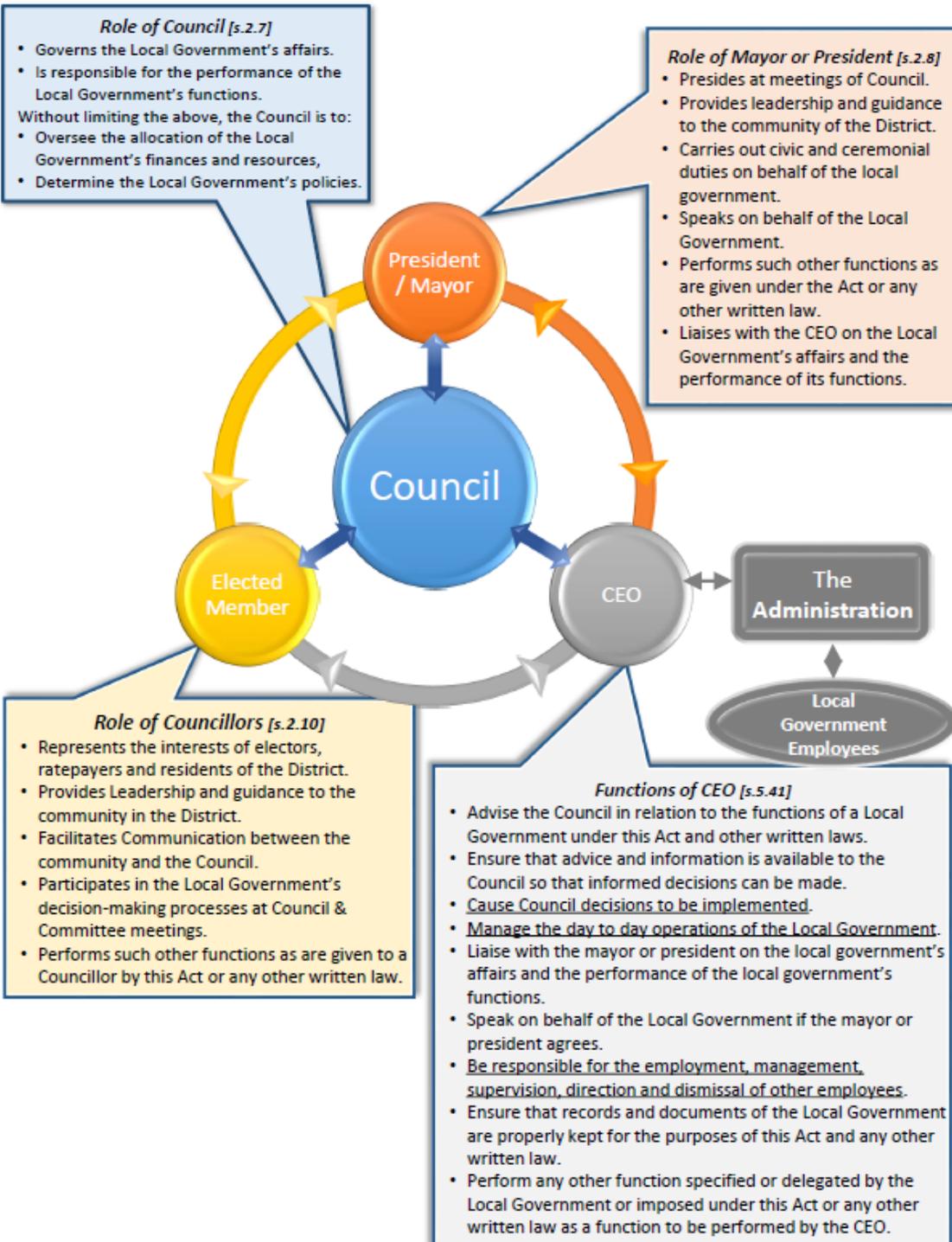
6.0 Document Control

Directorate	Community Planning
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Full Review	Due following the date of the next Local Government ordinary election.

Notes

In relation to Clause 4.3, it is acknowledged that the Act recognises the importance of the demarcation between a local government’s Council and its Administration, as follows.

Elected Member Roles and Responsibilities





AUDIT AND GOVERNANCE COMMITTEE

INSTRUMENT OF APPOINTMENT AND DELEGATION

1. PURPOSE OF THE INSTRUMENT OF APPOINTMENT

The purpose of the Instrument of Appointment is to:

- 1.1 Facilitate the operation of the Audit and Governance Committee;
- 1.2 Support the Council in fulfilling its responsibilities in relation to:
 - a. risk management systems
 - b. internal control structure
 - c. financial reporting
 - d. compliance with laws and regulations
 - e. internal and external audit functions

2. INTRODUCTION

The Audit and Governance (AG) Committee has been established in accordance with part 7 of the *Local Government Act 1995*.

The Audit and Governance Committee is an advisory committee formally appointed by the Council and is responsible to the Council. The AG committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any financial responsibility. The AG committee does not have any management functions and is therefore independent of management.

3. OBJECTIVES

The AG Committee's primary objective is to support the Council in discharging its legislative responsibility associated with governing the Town's affairs and overseeing the allocation of the Town's finances and resources.

The AG Committee will promote transparency and accountability in the Town's financial reporting and promote effective and responsible management of risks to protect the Town's assets.

The AG Committee will report to Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

More specifically, the objectives of the AG committee are to oversee:

- 3.1 The integrity of external financial reporting, including accounting policies.
- 3.2 The scope of work, objectivity, performance and independence of the internal and external auditors.
- 3.3 The establishment, effectiveness and maintenance of controls and systems to safeguard the Town's financial and physical assets.
- 3.4 The framework and systems that are designed to ensure the Town comply with relevant statutory and regulatory requirements.
- 3.5 The framework for recognising risks arising from the Town's operations and strategies, and consider the adequacy of measures taken to manage those risks.
- 3.6 The framework and systems which protect the Council against fraud and irregularities.

The AG committee must also add to the credibility of Council by promoting ethical standards through its work.

4. AUTHORITY

The AG committee has the authority of Council to:

- 4.1 Review the internal and external auditor's annual audit plans and the outcomes/results of all audits undertaken;
- 4.2 Formally meet with the Town's appointed internal and external auditor as necessary;
- 4.3 Ensure that any matters raised by the internal and external audit that require action are actioned; and
- 4.4 Advise Council on any or all of the above as deemed necessary.

5. MEMBERSHIP

- 5.1 The Committee will comprise of up to seven (7) members, as follows:
 - (a) Four (4) Elected Members; and
 - (b) Up to three (3) community members.
- 5.2 An external member will be a person independent of the Town of Bassendean, and will not have provided paid services to the Town either directly or indirectly.

- 5.3 External independent members will be selected based on the following criteria:
- a) a demonstrated high level of expertise and knowledge in financial management, reporting, governance and audit; and
 - b) relevant skills and experience in providing independent expert advice.
- 5.4 Appointments of external independent members will be made following a public advertisement, and all nominations will be provided to Council for consideration.
- 5.5 The Council will appoint all members of the Committee.
- 5.6 Members shall be appointed for a period of up to two (2) years terminating on the day of the Local Government Ordinary Council Elections.
- 5.7 The Presiding Member and Deputy Presiding Member will be appointed by the AG Committee, biennially by election by all committee members after the Local Government Ordinary Council Elections.
- 5.8 The quorum for a meeting shall be a minimum of 3 Committee members.
- 5.9 Committee members are required to abide by the Local Government Act and Code of Conduct in observing the requirements of declaring any proximity, financial or impartiality interests that relate to any matter to be considered at each meeting.
- 5.10 Reimbursement of expenses approved by Council may be paid to an external person who is a member of the Committee.

6. MEETINGS

The AG Committee shall meet every three (3) months or more regularly as required at the discretion of the Presiding Member of the AG Committee, the Mayor, or the CEO.

- 6.1 All AG committee members are expected to attend each meeting in person.
- 6.2 Elected Members, who are not part of the AG committee are invited to observe AG committee meetings, however, they are not entitled to participate in the meeting.
- 6.3 The members of the AG committee are to elect a Presiding Member from amongst themselves at the first meeting of the committee following an Ordinary Local Government Election.
- 6.4 The Presiding Member will preside at all meetings.

- 6.5 Each member of the Committee at a meeting will have one vote. The Presiding Member will have a casting vote and simple majority will prevail.
- 6.6 A committee recommendation does not have effect unless it has been made by simple majority. A simple majority is the agreement of not less than half of the members present at the meeting.
- 6.7 The CEO, or his delegate, the Director Corporate Services, is to attend all meetings to provide advice and guidance to the committee, however the CEO and employees are not members of the committee.
- 6.8 The CEO will invite members of management, internal and external auditors or others to attend meetings as observers and to provide pertinent information, as necessary.
- 6.10 The AG committee meetings are generally open to the public unless the Presiding Member or CEO deem it necessary to proceed behind closed doors pursuant to section 5.23 of the Local Government Act 1995.
- 6.11 Meeting agendas will be prepared and provided at least one week in advance to members, along with appropriate briefing materials.
- 6.12 Minutes will be taken at each meeting and presented to the subsequent meeting for confirmation.
- 6.13 Reports and recommendations of each committee meeting shall be presented to the next ordinary council meeting.

7. RESPONSIBILITIES

The AG committee will carry out the following responsibilities:

7.1 Risk management

- 7.1.1 Review whether management has in place a current and comprehensive enterprise risk management framework and associated procedures for effective identification and management of the Town's business and financial risks, including fraud.
- 7.1.2 Assess whether a sound and effective approach has been followed in managing the Town's major risks including those associated with individual projects, program implementation, and activities.
- 7.1.3 Assess the impact of the Town's enterprise risk management framework on its control environment and insurance arrangements.
- 7.1.4 Review the process of developing and implementing the Town's fraud control arrangements and satisfy itself the Town has appropriate processes and systems in place to detect, capture and effectively respond to fraud-related information.

7.2 Business continuity

- 7.2.1 Assess whether a sound and effective approach has been followed in establishing the Town's business continuity planning arrangements, including whether business continuity and disaster recovery plans have been periodically updated and tested.

7.3 Internal Control

- 7.3.1 Review whether management's approach to maintaining an effective internal control framework is sound and effective.
- 7.3.2 Review whether management has in place relevant policies and procedures and that they are periodically reviewed and updated.
- 7.3.3 Assess whether the appropriate processes are in place to assess, at least once a year, whether key policies and procedures are complied with.
- 7.3.4 Review whether appropriate policies and supporting procedures are in place for the management and exercise of delegations.
- 7.3.5 Consider how management identifies any required changes to the design or implementation of key internal controls.

7.4 Financial Report

- 7.4.1 Review significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent accounting, professional and regulatory pronouncements and legislative changes, and understand their effect on the financial report.
- 7.4.2 Review with management and the internal and/or external auditors the results of the audit, including any difficulties encountered.
- 7.4.3 Review the annual financial report and performance report of the Town of Bassendean and consider whether it is complete, consistent with information known to AG committee members, and reflects appropriate accounting principles.
- 7.4.4 Review with management and the internal and/or external auditors all matters required to be communicated to the AG committee under the Australian Auditing Standards.
- 7.4.5 Review the draft Annual Financial Statements and recommend the adoption of the Annual Financial Statements to Council, in accordance with the timeframes as prescribed.
- 7.4.6 Review the mid year budget review and recommend the adoption of the budget review to Council.

7.5 Compliance

- 7.5.1 Review the systems and processes to monitor effectiveness of the system for monitoring compliance with legislation and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of non-compliance.
- 7.5.2 Keep informed of the findings of any examinations by regulatory agencies and any auditor (internal or external) observations and monitor management's response to those findings.
- 7.5.3 Obtain regular updates from management about compliance matters.
- 7.5.4 Review the annual Compliance Audit Return and report to the Council the results of the review.

7.6 Internal Audit

- 7.6.1 Review with the AG Committee (via the CEO) the terms of reference, activities and resourcing of the internal audit function.
- 7.6.2 Review and recommend the annual internal audit plan for approval by the Council and all major changes to the plan.
- 7.6.3 Monitor processes and practices to ensure that the independence of the audit function is maintained.
- 7.6.4 Provide an opportunity for the AG committee to meet with the internal auditors to discuss any matters that the AG committee or the internal auditors believe should be discussed privately.
- 7.6.5 Annually review the performance of the internal audit including the level of satisfaction with internal audit function having consideration of the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing.
- 7.6.6 Review all audit reports and provide advice to the Council on significant issues identified in audit reports and action to be taken on issues raised, including identification and dissemination of good practice.
- 7.6.7 Monitor management's implementation of internal audit recommendations.
- 7.6.8 Regularly review a report given to it by the CEO under regulation 17 (3) of the Local Government (Administration) Regulations 1996.
- 7.6.9 In seeking to further enhance assurance, that the Town's Internal Auditors have:
 - a functional reporting line to the Audit and Governance Committee; and
 - an administrative reporting relationship to the Chief Executive Officer.
- 7.6.10 In light of the above and to facilitate a functional reporting line to the Audit and Governance Committee, that a standing invitation to all Audit

& Governance Committee meetings be extended to the Town's Internal Auditor.

7.7 External Audit

- 7.7.1 Develop and recommend to Council a process to be used to select and appoint a person to be an auditor.
- 7.7.2 Recommend to Council the person or persons to be appointed as the external auditor.
- 7.7.3 Develop and recommend to Council a written agreement for the appointment of the external auditor in accordance with Local Government (Audit) Regulation 7.
- 7.7.4 Note the external auditor's proposed audit scope and approach for financial performance audits.
- 7.7.5 Consider the findings and recommendations of relevant Management Letters undertaken by the external auditor and ensure the Town implements relevant recommendations.
- 7.7.6 Provide an opportunity for the AG committee to meet with the external auditors to discuss any matters that the AG committee or the external auditors believe should be discussed privately.
- 7.7.7 Annually review the performance of external audit including the level of satisfaction with external audit function.
- 7.7.8 Monitor management's implementation of external audit recommendations.

7.8 Reporting Responsibilities

- 7.8.1 Report regularly to the Council about AG committee activities, issues, and related recommendations through circulation of minutes.
- 7.8.2 Monitor that open communication between the internal and external auditors and the Town's management occurs.

7.9 Other Responsibilities

- 7.9.1 Perform other activities related to these terms of reference as requested by the Council.
- 7.9.2 Annually review and assess the adequacy of the AG committee terms of reference, request Council approval for proposed changes, and ensure appropriate disclosure as might be required by legislation or regulation.

LOCAL EMERGENCY MANAGEMENT COMMITTEE - TERMS OF REFERENCE

1.0 Name

The Committee is the Bassendean Local Emergency Management Committee (BLEMC) and is established pursuant to Section 38 of the *Emergency Management Act 2005*.

2.0 Role and functions of the Committee

The constitution and procedures of the BLEMC are determined by the State Emergency Management Committee and set out in the State Emergency Management Procedures.

In accordance with section 39 of the Act, the functions of the BLEMC are to:

- (a) advise and assist the Town in ensuring that local emergency management arrangements are established for its district.
- (b) liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements.
- (c) carry out other emergency management activities as directed by the State Emergency Management Committee (SEMC), or prescribed by the *Emergency Management Regulations 2006*.
- (d) assist in the planning and development of emergency management operating procedures for the Town.
- (e) provide assistance to the Local Emergency Coordinator and lead authorities during emergency management operations.
- (f) assist with the preparation and approval of the Bassendean Local Emergency Management Arrangements for submission to the SEMC for approval.
- (g) review the Arrangements at least annually.
- (h) ensure appropriate testing and exercising of the Arrangements.
- (i) report annually on the activities of the BLEMC to the SEMC.
- (j) carry out emergency management functions as directed by SEMC.

The function of the BLEMC is to ensure that local emergency management arrangements are prepared and maintained for the Town of Bassendean and to perform any other emergency management requirements as specified under the Act.

3.0 Membership

3.1 Membership of the Committee shall be as follows:

- Two (2) Town of Bassendean Councillors
- Town of Bassendean - Director Community Planning (Local Recovery Coordinator)
- Officer in Charge - Kiara Police Station (Local Emergency Coordinator)
- Department of Fire and Emergency Services - District Officer
- Two (2) Department of Communities representatives
- Bassendean State Emergency Service - Unit Manager
- St John Ambulance - Manager Emergency Management Unit

3.2 Representatives from other agencies and associations (including a representative of the District Emergency Management Committee) may be invited to attend and provide reports on their respective agencies and associations. These representatives attend in an advisory capacity only and do not have voting rights.

3.3 Town staff, as nominated by the Chief Executive Officer, will provide advice and administrative support to the BLEMC. These representatives do not have voting rights.

3.4 The Town is to appoint an Executive Officer to coordinate the business of the BLEMC, provide administrative support and coordinate the development and submission of BLEMC documents, such as annual reports. This position does not have voting rights.

3.5 At the first meeting following the local government elections, the BLEMC will appoint a Town councillor as the Presiding Member or Chair. The Local Emergency Coordinator (Officer in Charge - Kiara Police Station) will be appointed as the Deputy Presiding Member or Deputy Chair.

3.6 The Presiding Member will ensure that the business of the BLEMC is conducted in an appropriate manner, having regard for the Department of Fire and Emergency Management's draft Local Emergency Management Committee Handbook.

4.0 Meetings

4.1 The BLEMC will meet four times per year. Where possible, notice of meetings will be given at least seven (7) days prior to each meeting.

4.2 A Quorum for a meeting of the BLEMC is at least five members.

4.3 Each member has one vote. Decisions of the BLEMC are made by simple majority and where votes are equally divided, the presiding member casts the deciding vote.

4.4 The minute taker is responsible for taking minutes and preparing them for publication. The unconfirmed minutes of the meeting are submitted to Council at the next scheduled Ordinary Council Meeting.

5.0 Delegations

The BLEMC is authorised to carry out various functions under the EM Act, however, the BLEMC has no delegated authority under the *Local Government Act 1995*, no authority to expend funds and decisions of the Committee do not bind the Council and the Town of Bassendean.

6.0 Communication

Members of the BLEMC may not speak, issue public statements or publish on social media on behalf of the BLEMC or Council, without the approval of the Town's Mayor.

7.0 Amendment

A resolution of Council is required to amend the Instrument. The BLEMC may make recommendations to Council, from time to time, to amend the Instrument.

8.0 Document Control

Directorate	Community Planning
Business Unit	N/A
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