KING ISLAND COUNCIL

Policy

Dispute Resolution

Responsible Officer: GENERAL MANAGER

Date: 19 August 2025

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1. Purpose

To establish the principles and procedures for dispute resolution with, and between, councillors related to matters outlined under the Code of Conduct in accordance with *Local Government Act 1993* Section 28JA, the *Local Government (General) Regulations 2015*.

2. Scope

This policy applies to disputes with, and between, councillors. Matters of dispute include those under the Code of Conduct and behaviour of councillors towards each other, council employees and community members more broadly.

2.1. Relationship to the Code of Conduct

This policy is to support the resolution of disputes with, and between, councillors before a Code of Conduct complaint is lodged.

Where a Code of Conduct complaint is lodged, the *Local Government Act 1993* requires that a complainant details why the outcome from the dispute resolution process was not satisfactory[1], or if the process was not used, why the dispute resolution process was not appropriate for the circumstances[2]. An exception is where the dispute resolution process is not appropriate to resolve the dispute.

2.2. When this policy may not be appropriate

A Code of Conduct complaint may be required where either party is unable, or unwilling to participate in some, or all, of the dispute resolution process, such as mediated discussions. These reasons will be documented by the Dispute Resolution Officer.

Other matters such as, but not limited to, health and safety risks, criminal misconduct, discrimination, breaches of the *Local Government Act 1993* are to be addressed outside this policy.

[1] *Local Government Act 1993*, Section 28V (fc).
[2] *Local Government Act 1993*, Section 28V (fd).

3. Principles

3.1. Procedural fairness

The principles of procedural fairness, or natural justice, will apply when dealing with a dispute under this Policy.

In particular:

(i) the parties in the dispute will be afforded equitable opportunities to be heard
(ii) any recommendations, or dispute resolution plans will be based on genuine consideration of the circumstances and evidence
(iii) the roles in the process will support procedural fairness.

3.2. Roles

Complainant

The person raising the dispute about a relevant matter.

Respondent

The councillor(s) that are subject to a dispute.

Mayor

The mayor as Chairperson of the council may ask for parties to engage in the dispute resolution process.

General Manager

The General Manager is responsible for identifying a council officer to act as the Dispute Resolution Officer. Where the Dispute Resolution Officer has an actual or perceived conflict of interest with the parties in dispute, the General Manager may appoint an alternative officer. The General Manager may appoint themselves where no other person is able to perform this role, and they can meet the requirements of this policy.

The General Manager is to identify a panel of Dispute Resolution Advisors for use under this Policy. Alternatively, councils may access the provider panel developed by the Local Government Association of Tasmania (LGAT).

Dispute Resolution Officer

The Dispute Resolution Officer manages the process, is responsible for maintaining the records of the process and appoints the Dispute Resolution Advisor. The Dispute Resolution Officer does not have a role in assessing the dispute.

Dispute Resolution Advisor (the Advisor)

The Advisor is a person external to the council who undertakes the dispute resolution process with the parties in dispute. Refer to section 4.4 for more detail on the Advisor.

Support person

The support person is a person who may support the complainant or respondent as part of the dispute resolution process. Refer to Section 4.7 for more detail.

3.3. Personal and shared responsibility

Councillors represent the views of the community, so at times they may hold and express views that are different, and opposing, to their fellow councillors. The democratic process means that there may be active debate that should be considered and respectful.

However, this debate may become a conflict or dispute. Where this happens, the parties should use their best endeavour to resolve the issue or dispute in an informal and courteous manner.

Where the parties have been unable to resolve the issue or dispute themselves, or it is not appropriate, then the dispute resolution process can then be applied. The process is to be approached by the parties in good faith to find a resolution.

3.4. Confidentiality

All parties will take all reasonable steps to maintain confidentiality when dealing with the dispute, to protect both the complainant and respondent.

With the mutual agreement of the complainant and respondent a closed meeting of Council may be advised that the parties are participating in dispute resolution process.

3.5. Accessibility

The Council will ensure that information on how to lodge a dispute, including this Policy, is available via its customer service counter and on the Council's website. The Council will make information available in accessible formats if requested. Any person wishing to lodge a dispute may contact the Dispute Resolution Officer if they require assistance in completing the dispute resolution form or otherwise navigating the dispute resolution process.

3.6. Equitable access

This Policy and process is designed to address the different needs and priorities of all persons, including of different genders. It provides measures that address different levels and types of experiences, power, information and influence. These measures include:

- Addressing power imbalances with an external neutral Dispute Resolution Advisor to support dispute resolution and providing for support person(s), detailing access to information, and maintaining accurate, clear records.
- Providing a safe environment through confidentiality and neutral party lodgement.
- Requiring Dispute Resolution Advisors with appropriate training for inclusiveness, gender responsiveness and trauma.

4. Procedures

4.1. Lodging and withdrawing disputes

Any person may lodge a dispute regarding a councillor's behaviour.

Lodgement of the dispute with the General Manager must occur within two months of the alleged behaviour by the Councillor or Councillors.

The Dispute Resolution Form must be completed in full to lodge a dispute. Completed forms must include the name and contact details of the complainant. A dispute must specify the part(s) of the Code of Conduct that the behaviour relates to.

Anonymous disputes cannot be accepted. Where an individual wishes to remain anonymous or does not want to put their complaint in writing the Dispute Resolution Officer may direct them to alternative avenues outside this Policy.

Where a Dispute Resolution Form omits required details, the Dispute Resolution Officer will invite the complainant to provide this information for the dispute to be progressed.

Separate costs and processes apply to Code of Conduct complaints.

Disputes may be withdrawn by the complainant by writing to the Dispute Resolution Officer. The Dispute Resolution Officer will provide written notice of the withdrawal to the respondent. Notice will not be provided if the withdrawal is prior to the respondent being notified of a dispute being lodged (Refer Section 4.3).

4.2. Notice to complainant

Within 10 business days after receiving a dispute, the Dispute Resolution Officer will provide written notice to the complainant that:

(i) confirms receipt of the dispute

(ii) outlines the process that will be followed

(iii) notes the confidentiality requirements of section 3.4 of this Policy

(iv) includes a copy of this Policy.

4.3. Notice to respondent

Within 15 business days after receiving a dispute, the Dispute Resolution Officer will provide written notice to the respondent that:

(i) advises that a dispute has been made in accordance with this Policy

(ii) includes a completed Dispute Resolution Form

(iii) outlines the process that will be followed

(iv) notes the confidentiality requirements of section 3.4 of this Policy

(v) includes a copy of this Policy.

4.4. Appointment of Dispute Resolution Advisor

The Dispute Resolution Officer is to engage a Dispute Resolution Advisor (Advisor) to conduct dispute resolution. The Advisor must:

- not be an employee of Council
- not have any direct relationship to the parties
- must be objective and impartial, with no real or perceived bias
- must be able to demonstrate that their practice is gender and trauma aware
- be accredited under the National Mediator Accreditation System (NMAS), or its successor, the Australian Mediator and Dispute Resolution Accreditation Standards (AMDRAS); or have a minimum of a Diploma in Mediation or Dispute Resolution.

In selecting a person to act in the capacity of the Advisor, the Dispute Resolution Officer will consider the nature of the issue under discussion, , knowledge/experience of local government and interpersonal skills that can most likely assist in resolving matters of conflict.

The Dispute Resolution Officer will provide written notice of the appointment of the Advisor to the complainant and the respondent.

The parties may object to the Dispute Resolution Officer if they believe that the Advisor does not meet the requirements detailed in this section and will provide evidence to

substantiate their view. The Officer will consider an objection and determine whether an alternate Advisor is to be appointed.

It is expected that there be no conflicts of interest between the Advisor and the complainant or respondent. If during the review process a conflict of interest arises between any party, the party must notify the Dispute Resolution Officer promptly. Where the Dispute Resolution Officer determines there is an actual conflict of interest, an alternative Advisor is to be appointed.

4.5. Dispute resolution process

4.5.1. Commencement

In commencing the dispute resolution process, the Advisor will bring together the parties to conduct an initial facilitated discussion or mediation. Where needed they may also undertake initial individual interviews with the parties and others.

The initial discussion is to provide a general picture of the dispute and to allow the Advisor to provide an estimate of the timeframe for the process based on the parties' willingness and availability. This discussion will support the Advisor's consideration of the appropriateness of undertaking the process including:

- the parties' willingness to participate in the process
- health and safety risks to the parties, or others.

The Advisor may determine that the process cannot continue due to:

- the risk that the process may cause harm to the health and safety of either of the parties; or
- one of the parties is unwilling or unable to participate; or
- initial engagement reveals circumstances that must be addressed through a different process, such as those outlined in Section 2.2

Where the Advisor has determined the process cannot continue, they will provide a report to the Dispute Resolution Officer. The report will provide their reasons and state their determination that the dispute will need to be resolved through alternative avenues. The Advisor may make recommendations regarding these avenues.

4.5.2. Process

The Advisor will determine the appropriate resolution processes based on their expertise and experience. This may include, but not be limited to, approaches such as mediation and facilitated restorative processes.

Resolutions may include, but not be limited to:

- a commitment to changing behaviours
- a commitment to cease the behaviour
- a commitment to apologise
- counselling
- undertaking professional development.

The Advisor may also make a recommendation to the Council that it review a policy, procedure, or other document related to the dispute.

The parties must represent themselves.

The maximum timeframe for a dispute resolution process is three months. At this time the Advisor is to provide a report to the Dispute Resolution Officer and close the dispute. This timeframe may be extended on the Advisor's recommendation and with the mutual agreement of the parties.

4.5.3. Information requests

Councillors and council staff are to respond to the Advisor's reasonable requests for information about the dispute. Information pertaining to a third party will require their consent for the information to be released.

The Advisor may request the Dispute Resolution Officer to search for any relevant records or information in the Council's Record Management System. The Advisor must provide the complainant and 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 Dispute Resolution Officer or the Advisor, copies must also be provided to the complainant and respondent.

4.6. Order of disputes

Disputes will normally be dealt with in the order in which they are received. If more than one dispute is received that relates to the same alleged breach, the Dispute Resolution Officer may progress those disputes concurrently, provided confidentiality can be maintained.

4.7. Support person

Complainants and respondents may include a support person as part of the dispute resolution process.

The role of the support person is to observe and provide emotional support. They are not to provide views on the process or on legal context. The support person must not be an Australian lawyer.
The parties are to provide written notice to the Dispute Resolution Officer of their intention to include a support person in the dispute resolution process. This notice is to include the person's name, occupation and relationship to the party.

The Advisor is to consider, before and during the process, the impact of the support person's participation on the principles in this Policy. The Advisor has absolute discretion to remove, or not to allow the person to participate in some, or all, of the process. The Advisor's determination will be provided in writing to the parties and to the Dispute Resolution Officer.

5. Reporting obligations

5.1. Report from Dispute Resolution Advisor

The Advisor must include in the confidential report to the Dispute Resolution Officer and to the parties:

(i) the process and methods that were used

(ii) outcomes of the process including commitments made by one or more of the parties

(iii) the views of the parties regarding the outcomes of the process.

5.2. Council

In accordance with *Local Government (General) Regulations 2015,* Regulation 30B, Council is required to maintain a record of the number of disputes, including whether they were determined, withdrawn or underway, and their total costs. This information is to be reported in its Annual Report.

6. Implementation and Communication

The General Manager is responsible for the implementation of this Policy in accordance with responsibilities outlined.

7. Approval

Council approval date	19 August 2025
Review	Every four years following the council election.

POLICY VERSION AND REVISION INFORMATION

Title: Dispute Resolution Policy

Policy Maintained by: General Manager

Manager Policy Commencement: 19 August 2025

Policy Review: Every four years following the council election

Version No	Date	Resolution No	Responsible Officer
1.0	19/08/2025	172/25	General Manager

Dispute Resolution Form

Instructions for Use

This form is for lodging a dispute under King Island's Council's Dispute Resolution Policy.

This form has been provided to ensure that you include all the information required under the *Dispute Resolution Policy* in your dispute. You will need to complete all the sections in this form.

To make a valid dispute, you will need to:

- ☐ Complete this form.
- ☐ Lodge the dispute with the General Manager of Council within two months of the alleged behaviour by the councillor or councillors.

Contact Details (of person lodging the dispute – the complainant)	
Name:	Telephone (mobile):
Address (Residential):	Telephone (work):
Address (Postal):	Telephone (home):
Email address:	Preferred mode of contact:

Summary of dispute	
Name of councillor who you are in dispute with (the respondent):	
Part(s) of the Code of Conduct or Council's that you believe have been infringed:	
Date(s) of incident(s):	
Location(s) of incident(s):	

Details of the dispute (further information may be attached)

Witnesses (include anyone with knowledge of what happened)

Have you previously made a dispute about this matter?

☐ Yes ☐ NO

If yes, when and to whom did you make the dispute?

Have you made any efforts to resolve the dispute directly with the respondent? (Note: this section is compulsory. Incomplete forms will be returned)	
☐ Yes Briefly describe the efforts that you have made **(Note: You must complete this section)**	☐ No Include a brief statement explaining why you have not made any efforts to resolve the issue with the respondent.

Desired outcome of dispute
Please explain what you would like to happen because of lodging this dispute.

Please sign and date
Signature:
Date: