



Behaviour Complaints Committee Meeting **Agenda**

The Boundary

Tuesday, 23 June 2026

1pm

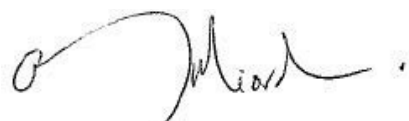
Shire of Harvey
Behaviour Complaints Committee

Dear Committee Member,

Notice is hereby given that the next meeting of the Behaviour Complaints Committee will be held on Tuesday, 23 June 2026 in the Boundary commencing at 1pm.

The business to be transacted is shown in the Agenda hereunder.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Annie Riordan', with a stylized flourish at the end.

Annie Riordan
Chief Executive Officer

19 June 2026.

Committee Membership

Shire President	Ms.	M.	Campbell
	Cr.	W.	Dickinson
	Cr.	L.	Morley

Staff

Chief Executive Officer	Ms.	A.	Riordan
Manager Governance and Strategy	Ms.	K.	Williams

Agenda

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3. Declarations of Members' and Officers' Personal Interest	5
4. Response to Previous Question Taken on Notice	5
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1. Official Opening**Disclaimer**

Members of the Public are advised that recommendations to Council contained within this Agenda can be subject to change. Applicants and other interested parties should refrain from taking any action until written advice is received confirming Council's decision with respect to any particular issue.

An audio and visual record will be made, by means of livestreaming, of these proceedings and uploaded to the Shire's YouTube page for viewing.

Acknowledgement of Country

The Shire of Harvey acknowledges the traditional custodians of the land and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities, their cultures, and to Elders past, present and emerging.

2. Record of Apologies and Leave of Absence**3. Declarations of Members' and Officers' Personal Interest****4. Response to Previous Questions Taken on Notice**

Nil.

5. Public Question Time**6. Petitions/Deputations/Presentations/Submissions****7. Confirmation of Minutes**

Nil.

8. Officers Reports

8.1. Executive Services

Item No.:	8.1
Subject:	Review of Behaviour Complaint relating to Councillor Code of Conduct
Proponent:	Shire of Harvey
Location:	Shire of Harvey
Reporting Officer:	Manager Governance and Strategy
Authorising Officer:	Chief Executive Officer
File No.:	CC/U/0640
Attachments:	Confidential Attachment 1

Reason for Confidentiality

Pursuant to Section 5.23(4)(b) of the *Local Government Act 1995*, portions of this report contained within **Confidential Attachment 1** include information relating to the personal affairs of an individual.

The confidential information includes Information concerning the identity, conduct, and personal circumstances of the individuals subject to the complaint.

This information has not been made public, and its disclosure could reasonably be expected to adversely affect the interests of the person. Accordingly, the contents of **Confidential Attachment 1** will be provided to Council on a confidential basis.

Should Council wish to discuss the information contained within the confidential attachment, Council will be required to resolve to close the meeting to members of the public in accordance with Section 5.23 of the *Local Government Act 1995*.

During the closed session, discussion is to be limited to the confidential information contained within the attachments and matters directly relating to the complaint received and recommendation.

In addition, section 8A.36 of the *Local Government Act 1995* imposes strict confidentiality obligations in relation to complaints. This provision makes it an offence for a person involved in the handling of a complaint to disclose or use information about the existence or details of the complaint, except as permitted by law. The inclusion of this information within a confidential attachment ensures compliance with these legislative confidentiality requirements and protects the integrity of the complaints process and the individuals involved.

Summary

Two behavioural complaints relating to a Councillor were received and assessed in accordance with the Local Government (Model Code of Conduct) Regulations 2021. The matters were considered by the Behaviour Complaints Committee on Tuesday, 14 April 2026, which made findings and determined outcomes including behaviour management plans.

Subsequent advice from the Office of the Local Government Inspector identified that, following adoption of the updated Model Code of Conduct, the functions under clauses 12 and 13 must be performed by Council unless properly authorised under Regulation 14B.

As the required authorisation was not in place at the time, the Committee's determinations cannot be relied upon as valid decisions. At the May 2026 Ordinary Council Meeting, the Behavioural Complaints Committee Authorisations were granted (Resolutions 26/84, 26/85, and 26/86). Accordingly, the matters are presented to the Committee once more for consideration.

Statutory/Policy Environment

Local Government Act 1995

- s.5.16 – Delegation to committees
- s.5.23(2)(b) – Reason for confidentiality
- s.5.105(3) – Referral to Inspector of Local Government

Local Government (Model Code of Conduct) Regulations 2021

Division 3: Behaviour

- cl.11 – Complaint about alleged breach
- cl.12 – Dealing with complaint
- cl.13 – Dismissal of complaint
- cl.14 – Withdrawal of complaint
- cl.14B – Performance of functions by council or authorised committee

Delegation 1.1.2 Behaviour Complaints Committee:

- cl.12(1) Determine whether a breach has or has not occurred
- cl.12(3) Apply the evidentiary threshold of "more likely than not"
- cl.12(7), cl.13(2) Provide reasons for its decision
- cl.12(4)–(6) Determine an outcome, including no further action or a behaviour management plan

The Committee must act in accordance with principles of procedural fairness, including impartiality, consideration of relevant material, and provision of an opportunity to respond.

Pursuant to s.5.105(3) of the *Local Government Act 1995*, the complaint must be referred to the Inspector of Local Government where the respondent has been found to have committed two or more behavioural breaches on or after 1 January 2026. Where applicable, the Committee is not authorised to determine the matter.

Council Policies:

- Policy 1.1.10 – Code of Conduct Complaints Policy
- Policy 1.1.14 – Code of Conduct for Council Members, Committee Members and Candidates
- Behaviour Complaints Committee Terms of Reference

Strategic Framework

The Shire's Council Plan 2025 – 2035, states:

- Pillar 5 – Performance:* A representative leadership that is future thinking, transparent and accountable.
- Objective 21:* Continue to deliver proactive and responsible leadership and governance.

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

In accordance with Clause 12(7) of the Code of Conduct for Council Members, Committee Members and Candidates written notice is provided to both the complainant and respondent with:

- The finding
- The reasons for the finding
- If a breach occurred, the decision whether to take no further action or implement a plan.

Promise to the Community

Inform: We will keep you informed.

In accordance with Clause 12(7) of the Code of Conduct for Council Members, Committee Members and Candidates written notice is provided to both the complainant and respondent with:

- The finding
- The reasons for the finding
- If a breach occurred, the decision whether to take no further action or implement a plan.

Risk Management

The Risk Theme Profile identified in relation to this item is Providing Inadequate Advice/Information. The Consequence could be Reputational if Council did not fulfil due diligence in determining the alleged breach of the Code of Conduct. The Risk has been mitigated by the obtaining appropriate legal advice in relation to the application of the Model Code of Conduct Regulations 2021. The Risk Consequence is considered to be Insignificant and the Likelihood Unlikely resulting in a Low level of risk.

Budget Implications

An Independent Complaint Assessor was appointed by the Shire to investigate and assess the complaint. Complaint assessment is provided for in the 2025-2026 Annual Budget. The Complaint Assessment has an estimated cost of \$2000.

Authority/Discretion

Quasi-Judicial: When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town development applications, building permits, applications for other permits/licenses (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council:

1. Notes and receives ***Confidential Attachment 1***.
2. Endorses the findings in ***Confidential Attachment 1*** in relation to complaint 1.
3. Endorses the recommendation as in ***Confidential Attachment 1*** in relation to complaint 1.
4. Endorses the findings in ***Confidential Attachment 1*** in relation to complaint 2.
5. Endorses the recommendation as in ***Confidential Attachment 1*** in relation to complaint 2.
6. Refers Complaint 1 to the Authorised Independent Assessor in accordance with the recommendation in ***Confidential Attachment 1***.

9. Closure of Meeting