



## **COMPLAINTS HANDLING PROCEDURE BOARD MEMBERS OF EAST WASTE**

### **Introduction**

This Complaints Handling Procedure is to be used in conjunction with the Code of Conduct for East Waste Board members.

It is to be used to address any complaints relating to the Code.

### **Principle**

East Waste is committed to supporting Board members in complying with the Code of Conduct, and to investigate and address any complaints made relating to the Code.

### **Making a Complaint**

A complaint alleging a breach of the Code of Conduct must:

- be in writing;
- identify the provisions of the Code which are alleged to have been breached;
- provide evidence to support the allegation; and
- be delivered to the Chairperson of East Waste, or in the case of a complaint against the Chairperson, to the Deputy Chairperson.

The complaint will be acknowledged within three days of it being received.

The complaint, its investigation and the outcome will be treated with strict confidentiality, in so far as the requirements of Section 90(3) of the Local Government Act 1999 are met. The complainant will also be expected to observe confidentiality.

The Board is to be advised in confidence by the Chairperson, at the next meeting of the Board that a complaint has been lodged, but no details are to be provided.

In the event the complaint is made by the General Manager, the matter is to be referred to the Chairperson.

### **Allegations of corrupt or illegal behaviour**

An allegation of illegal behaviour will not be investigated by the Board, but will be referred to the appropriate authority. Allegations of corruption will be referred to the Anti Corruption Branch of the SA Police, and allegations of other illegal behaviour will be referred to the Minister for State Local Government Relations.

In these instances, the Board and the subject of the allegation are not to be advised of the allegation so as not to compromise the investigation. The Board will be advised once the investigation has been completed.

### **Assessment of the Complaint**

The Board will appoint an independent Assessor, mutually agreed by the Board and the parties involved. If no agreement can be reached, a person nominated by the Local Government Association will be appointed.

#### Role of the Assessor

Where the Assessor believes that the allegation is frivolous or vexatious and that no further action is required, a report to this effect is to be provided to the Chairperson of the Board, and the case dismissed.

Where there appears to be substance to the allegation, the Assessor will:

- conduct a thorough investigation, with a balanced assessment made on the available evidence, the circumstances prevailing at the time, and any other factors deemed relevant by the Assessor;
- provide the subject of the complaint a reasonable opportunity to explain his/her actions and to make a written submission to the Assessor;
- provide a final report to the Board within 14 days of the receipt of the written submission from the complainant, or longer if the Board so determines;
- alert the Board prior to the 14 day deadline if he/she believes that more time is required to complete the investigation and the report.

All parties should note the following:

1. while the complaints process is not an adversarial procedure, should either party opt to have legal representation, the costs are to be met by the individual parties and not the Authority; and
2. there is no right of appeal on the report of the independent Assessor.

### **The Final Report**

- the final report is to be presented to the Board in confidence, subject to the provisions of Section 90(3) of the Local Government Act 1999;
- subject to the provisions of Section 91(7) the final report could remain confidential;
- the final report may recommend a penalty; and
- the subject of the complaint is to be provided with an opportunity to comment in writing on the findings of the Assessor and the appropriateness of the penalty. (Note: Procedural fairness attaches to the subject of the complaint. The complainant is not able to comment.)

### **The Board's Decision**

- the Board is required to take into account any written comment by the subject of the complaint when making its final decision;
- in the interests of procedural fairness, the final report must show the due process followed by the Assessor and the reasons for reaching the decision;
- the complainant and the subject of the complaint must be provided with a copy of the Assessor's report and a copy of the Board's resolution; and
- the relevant constituent council is also to be provided with a copy of the Board's resolution, under the same conditions of confidentiality.

### **Penalties / Sanctions**

The following penalties could be imposed by the Board, should it be found that there has been a breach of the Code of Conduct:

- censure of the Board member;
- request for a public apology;
- a recommendation that the Board member undertakes particular training or receives particular instruction in relation to the breach;
- a recommendation that both parties participate in a dispute resolution process which could include mediation and/or restorative justice; and
- a public announcement of the complaint made against the Board member and the penalty imposed.

### **Confidentiality and Procedural Fairness**

Provided that Section 90(3) provisions are satisfied, the investigation process and the Board's deliberations will remain confidential until such time as the Board deems otherwise.

Procedural fairness will be observed at all times during the handling and investigation of the complaint.

### **Further Information**

The complaints procedure is available on the East Waste website at <http://www.eastwaste.com> and at the office of East Waste at 1 Temple Court Ottoway, South Australia 5013.

On payment of a fee, a copy of this Procedure may be obtained from East Waste, or otherwise may be downloaded for free from the website.

Any queries in relation to this Procedure should be directed to the General Manager on 08 8347 5111.

### **Statement of Adoption and Review**

This Procedure was adopted by the Board on [insert date] and will be reviewed in conjunction with the Code of Conduct at least once within four (4) years of the adoption date.