

CONFIDENTIAL MEMORANDUM

TO: Council

MEETING DATE: 6 September 2023

TITLE: Approve list of Code of Conduct Investigators

PRESENTED BY: Sarah Claridge, Democracy and Governance Advisor, and
Desiree Harvey, Legal Counsel

APPROVED BY: Donna Baker, Acting Chief Executive Unit Manager

It is recommended that this report be considered with the public excluded, as permitted by the Local Government Official Information and Meetings Act 1987 under clause:

s7(2)(a) Privacy - The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person

RECOMMENDATION FOR PUBLIC RELEASE

Report and attachment to be released, once successful candidates are informed of their appointment.

RECOMMENDATION TO COUNCIL

1. That the Council approve the list of Code of Conduct investigators (Attachment 1) for a term of three years, from 10 September 2023 to 10 September 2026.
 2. That the Council release the decision once successful candidates have been informed of their appointment.
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1. ISSUE

- 1.1 Elected Members' [Code of Conduct](#), adopted following the local election, sets out a new complaints process with independent review. To improve transparency, natural justice and to avoid the appearance of bias, the independent investigator then reports findings to the Chief Executive.
- 1.2 The Code specifies that an investigator will be appointed from the list of independent investigators approved by Council. This report seeks Council approval of that list.

- 1.3 Officers have completed a selection process for independent investigators to consider Elected Member Code of Conduct complaints. The recommended list is attached.

2. THE ROLE OF AN INVESTIGATOR

- 2.1 In the case of a Code of Conduct complaint requiring a preliminary investigation, the Chief Executive will assign an investigator from the approved list.

- 2.2 In this instance, an investigator will:

1. Make a preliminary investigation to determine the seriousness of the complaint and whether it fits the scope of the Code of Conduct. This requires making initial inquiries and presenting a written report (possibly with recommended actions) to the Chief Executive,

And, if necessary:

2. Formally investigate material complaints and report findings to the Chief Executive. This involves interviewing parties and other witnesses and gathering evidence to inform the report.

- 2.3 The role of the investigator is a casual position with no set hours as there is a high chance they may not be required at all. Candidates were informed that they were seeking a place on the Council's list and there is no guarantee of any work.

3. APPOINTMENT PROCESS

- 3.1 Officers sought an expression of interest (EOI) for the independent investigator role on the Government Electronic Tender Service (GETS) for 3 weeks. Council received 23 applications for the position.

- 3.2 The Legal Counsel, Democracy Governance Advisor and Procurement Manager reviewed the EOIs to determine whether applicants had the desirable skills, knowledge and experience required to fulfil the position.

- 3.3 Applications were considered against the following criteria:

- qualification to be an independent investigator (either as a lawyer or as a qualified investigator)
- experience investigating code of conduct complaints in local government
- hourly rate (under \$600)

- 3.4 Officers recommend Council appoint the investigators (Attachment 1) to form the list of independent investigators for Code of Conduct complaints for the 2022-25 triennium. Appointments will be for a period of three years until 10 September 2026.

3.5 Officers are confident the list provides a good range of financial, employment and professional misconduct expertise to cover the possible scope of work that could arise from a Code of Conduct complaint. While having 11 firms on the list might appear excessive, it should hopefully provide certainty that should Council need an investigator, one will be available to meet the desired timeframes.

4. FINANCIAL IMPACT

4.1 The financial impact is unknown, as investigators will only be called upon should a complaint arise.

4.2 As such, no additional budget is requested, instead the expense will be covered within existing operating budget.

5. NEXT STEPS

5.1 Candidates will be informed of their appointment and engaged as necessary.

6. COMPLIANCE AND ADMINISTRATION

Does the Council have delegated authority to decide?	Yes
Are the decisions significant?	No
If they are significant do they affect land or a body of water?	No
Can this decision only be made through a 10 Year Plan?	No
Does this decision require consultation through the Special Consultative procedure?	No
Is there funding in the current Annual Plan for these actions?	Yes
Are the recommendations inconsistent with any of Council's policies or plans?	No
The recommendations contribute to Goal 5: A Driven & Enabling Council	
The recommendations contribute to the achievement of action/actions in Governance and Active Citizenship	
The action is: Ongoing review of governance systems and structures to support Councils effectiveness and reputation.	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	Appointing independent investigators to investigate code of conduct complaints ensures a transparent and fair procedure, thereby enhancing public confidence in their representatives.

ATTACHMENTS

1. List of Independent Investigators 2023-2026