

# CODE OF PRACTICE FOR LIBERALS IN LOCAL GOVERNMENT

## 1. PREAMBLE

### 1.1. **Mandatory Code**

This is a mandatory code of practice of general application to Members of the Liberal Party of Australia New South Wales Division and adopted by State Executive under Clause 13.2.3(5) of the Constitution of the Liberal Party of Australia New South Wales Division (the "Constitution").

### 1.2. **Name of the Code**

This Code is to be known as the Code of Practice for Liberals in Local Government (the "Code").

### 1.3. **Application of this Code**

This Code applies to Members of the Liberal Party of Australia New South Wales Division who are Councillors under the Local Government Act 1993 (NSW) ("Local Government Act").

Part 4 and clauses 6.1 to 6.4 of this Code do not apply in a situation where there is only one Member of the Liberal Party elected as a Councillor in a Local Government Area.

Parts 2, 3.4, 3.6, 4 only apply to endorsed Liberal Party Candidates and Councillors.

### 1.4. **Commencement date**

This Code takes effect on 1 July 2013.

### 1.5. **Previous policies**

This Code supersedes all previous policies or codes of practice in relation to Liberals participating in local government.

## **2. CONDUCT OF LOCAL GOVERNMENT ELECTION CAMPAIGNS**

### **2.1. Selection and endorsement of Candidates**

Candidates must be selected and endorsed in accordance with the relevant provisions of Clauses 21 and 26 of the Constitution.

### **2.2. Appointment of Team Leader**

- 2.2.1. A Team Leader must be selected for each local government area in which the Liberal Party is endorsing candidates.
- 2.2.2. Subject to clause 2.3, the Team Leader must be selected by pre-selected candidates at the conclusion of the selection committee meeting conducted pursuant to Clause 26 of the Constitution. In the event of a tied vote in this regard, the Team Leader will be determined by draw by lot.
- 2.2.3. The role of the Team Leader is to act as the point of contact and the spokesperson in situations where a unified response is required from Liberal Party Candidates.

### **2.3. Team Leader during election campaigns**

- 2.3.1. For the purposes of clause 2.2, the 'Team Leader' is:
  - 2.3.1.1. in the case of a local government area where the Mayor of the Council is appointed by popular election, the person who is selected and endorsed as the candidate for mayor; or
  - 2.3.1.2. in the case of a local government area where the Mayor of the Council is not appointed by popular election, and where there are no wards or ridings, the person who is selected and endorsed as the first placed candidate on the Liberal Party ticket; or
  - 2.3.1.3. in the case of a local government area where the Mayor of the Council is not appointed by popular election, and where there are wards or ridings, one of the candidates selected as the first placed candidate on the Liberal Party ticket in one of the wards or ridings as determined by the selection committee.
- 2.3.2. The term of appointment of the Team Leader appointed pursuant to paragraph 2.2 expires upon the declaration of the relevant local government poll for a general election.

## 2.4. Appointment Of Campaign Officers

2.4.1. Each Local Government Conference must, by vote, appoint Campaign Officers (to be known as the “Campaign Committee”) to assist in the conduct of the Local Government Election Campaign, who must include:

2.4.1.1. a Campaign Manager;

2.4.1.2. a Finance Director;

2.4.1.3. the Treasurer of the LGC;

2.4.1.4. the Official Agent or Agents for the relevant candidates; and

2.4.1.5. such other persons to undertake such other tasks which in the opinion of the Campaign Committee are reasonably required.

## 2.5. Appointing additional Campaign Committee members

A Local Government Conference may authorise the Campaign Committee to appoint further members to the Campaign Committee from time to time.

## 2.6. Campaign Committee

2.6.1. The Campaign Committee must meet regularly and consult with candidates, prior to the Local Government election, to identify, discuss and determine strategies for the conduct of the campaign, including (but not being limited to) the budget, policies, publicity and preferences.

2.6.2. Members of the Campaign Committee must carry out all duties assigned to them by the Campaign Committee by vote.

## 2.7. Campaign budget

The Campaign Committee must prepare a budget for the conduct of the campaign and must submit the budget to the State Director (or the State Director’s nominee) for approval prior to expenditure of any monies.

## 2.8. Campaign fundraising and expenses

- 2.8.1. Fundraising for the purposes of any campaign is subject to the Liberal Party Finance Code and relevant State donation laws.
- 2.8.2. Campaign expenses must be funded in the following ways:
  - 2.8.2.1. by the LGC in accordance with this Code, the Finance Code and Clause 8.5.2 of the Constitution;
  - 2.8.2.2. by donations and contributions from Party members and supporters, which are made in accordance with the Finance Code; and
  - 2.8.2.3. by such other methods of fundraising as are determined by the Campaign Committee
- 2.8.3. No Councillor or candidate is to administer or accept donations.
- 2.8.4. The Campaign Finance Director must record all campaign donations and expenditure in the Liberal Party OCER system immediately upon being respectively received or incurred.

## 2.9. Campaign material

- 2.9.1. A Campaign Committee in consultation with candidates must submit all campaign material for the approval of the State Director or the State Director's nominee. The State Director or the State Director's nominee shall endeavour to give a reply within two business days of receiving material from a Campaign Committee.

## 2.10. Preferences

- 2.10.1. The allocation of preferences shall be determined by the State Director or the State Director's nominee before distribution.
- 2.10.2. A Campaign Committee in consultation with candidates may submit a recommendation for the allocation of preferences to the State Director or the State Director's nominee.

### **3. RESPONSIBILITIES OF A COUNCILLOR**

#### **3.1. Compliance with State laws relevant to Local Government**

Liberal Councillors and candidates must familiarise themselves and comply with the provisions of all State laws relevant to Local Government, including in particular the Local Government Act, the Election Funding, Expenditure and Disclosures Act (1981) the Model Code of Conduct for Local Councils in NSW 2013 and all delegated legislation made under those Acts.

#### **3.2. Compliance with Council Codes and policies regulating behaviour**

Liberal Councillors must familiarise themselves and comply with the provisions of their Council Code of Conduct, Code of Meeting Practice and other relevant codes and policies regulating the behavior of elected members.

#### **3.3. Desirable behaviour for Liberal Councillors**

It is considered desirable for Councillors:

- 3.3.1. to have a thorough understanding of the philosophy and policies of the Liberal Party of Australia, New South Wales Division;
- 3.3.2. to be aware of current and emerging issues in Local Government and their local government area; and
- 3.3.3. to attend Local Government conferences and seminars.

#### **3.4. Local Government Conferences**

Councillors must support a constitutional and active Local Government Conference through attending meetings, reporting on Council activities and supporting campaign and fundraising activities.

#### **3.5. State Council Attendance**

Subject to Section 9.3.2(c) of the Liberal Party Constitution, all Liberal Party Members endorsed as Candidates and elected to Local Councils must attend State Council meetings.

Where it is not possible to attend a State Council meeting, Councillors must provide an apology to either the State Director or nominee.

## **4. LIBERAL COUNCILLORS AND COUNCIL MEETINGS**

### **4.1. Liberal Group of Councillors**

- 4.1.1. All Liberal endorsed Councillors and Liberal Party members elected as independents in a Local Government Area form the Liberal Group of Councillors.
- 4.1.2. The benefits and responsibilities applicable to endorsed Liberal Councillors equally apply to Liberal Party members elected as independents.

### **4.2. Team Leader after the election**

Each Liberal Group of Councillors must have a Team Leader.

The Team Leader is responsible for arranging and chairing pre-Council meetings of the Liberal Group of Councillors, dealing with matters relating to breaches of this Code and distributing information as required.

### **4.3. Mayor to be Team Leader**

In cases where a Liberal endorsed candidate has been elected as Mayor, the Mayor will be the Team Leader of the Councillors comprising the relevant Liberal Group of Councillors. The Mayor may decline to be the Team Leader.

### **4.4. Election of Team Leader**

- 4.4.1. Subject to clause 4.3 of this Code, the Liberal Group of Councillors must meet at the earliest opportunity immediately after the declaration of the relevant poll and prior to the commencement of each new mayoral term to elect a Team Leader. In the event of a tied vote in this regard, the Team Leader will be determined by draw by lot.
- 4.4.2. The term of appointment of the Team Leader appointed pursuant to clause 4.3 or 4.4 of this Code is the duration of the relevant mayoral term.
- 4.4.3. The Liberal Group of Councillors must confirm the identity of the Team Leader to the LGC President and the State Director or nominee.

### **4.5. Pre-Council meetings**

- 4.5.1. The Liberal Group of Councillors will meet as required.

- 4.5.2. Prior to each council meeting at which an election will be held for the offices of Mayor, Deputy Mayor and/or the Chairperson of a council committee, the Liberal Group of Councillors must meet to determine by election the candidates for these positions and for Team Leader. Decisions in relation to these elections are binding on all members of the Liberal Group of Councillors and subject to disciplinary oversight as permitted in the Local Government Model Code of Conduct (Clause 3.12).
- 4.5.3. In the event of a tied vote in a meeting of the Liberal Group of Councillors, the result will be determined by draw by lot.
- 4.5.4. It is the responsibility of absent members of a Liberal Group of Councillors to acquaint themselves with decisions made in the meetings referred to in clause 4.5 of this Code.
- 4.5.5. Pre-Council meetings are confidential in nature. The matters discussed at these meetings cannot be disclosed to any person except as stated in this Code or as required by law.
- 4.5.6. Pursuant to the NSW Department of Local Government Model Code of Conduct (Clauses 3.9 – 3.11) there is no 'binding' or 'caucus' vote permitted in relation to appointments to external bodies such as Regional Organisations of Councils or Local Government NSW.

#### 4.6. **Records of decisions**

The Team Leader must keep a record of votes in relation to clause 4.5.

### 5. **LOCAL GOVERNMENT NSW**

#### 5.1. **Local Government NSW**

- 5.1.1. Any financial Member of the Liberal Party who has been elected as a Councillor in New South Wales is eligible to nominate to be a candidate for positions on the Board of Local Government NSW.
- 5.1.2. The State Executive of the NSW Division of the Liberal Party will consider and where appropriate endorse a Liberal Party ticket for the Board elections of Local Government NSW.
- 5.1.3. All financial Members of the Liberal Party who have been elected as a Councillor in NSW and who are eligible to vote in elections for the Board of Local Government NSW must vote in elections for the Board of Local Government NSW

in accordance with the “How to Vote” card endorsed by State Executive.

## **6. FAILURE TO COMPLY WITH THIS CODE**

### **6.1. Procedures for dealing with breaches of this Code**

- 6.1.1. Where a Councillor is alleged to have breached this Code, the Liberal Group of Councillors must meet to discuss and, if required, consider motions that a breach has occurred and to refer the alleged breach to State Executive, in accordance with Clause 6 of this Code.
- 6.1.2. The mover of the motions must give at least seven days’ notice in writing to all members of the Liberal Group of Councillors and the Chairperson of the Local Government Management Committee that the motions will be moved. The motions cannot be moved without notice being given in accordance with this clause.
- 6.1.3. The notice of the motions must provide the date, time and place of the meeting, include the text of the motions and the section or sections of the Code which the relevant Councillor is alleged to have breached.
- 6.1.4. Where the Liberal Group of Councillors resolves that a Councillor has failed to comply with this Code, the Team Leader or the mover of the relevant motions if the Team Leader is the subject of the motions must forward a report to State Executive, care of the State Director.
- 6.1.5. The report to State Executive must contain at least the following information:
  - 6.1.5.1. a copy of the notice of the motions and the relevant meeting;
  - 6.1.5.2. the text of the resolutions passed by the Liberal Group of Councillors;
  - 6.1.5.3. the result of the vote, listing the number of votes cast for and against the resolutions and any abstentions;
  - 6.1.5.4. a copy of the signed attendance sheet for the meeting;
  - 6.1.5.5. a summary of the relevant facts related to the alleged breach of the Code, this summary to be prepared by the Team

Leader or in the case of the Team Leader being the subject of the motions, by the mover of the motions; and

- 6.1.5.6. any submission or documents provided by the Councillor alleged to have breached the Code.

## 6.2. Mediation

- 6.2.1. The Local Government Management Committee must appoint a standing panel of not less than three mediators, all of whom must be members of the Liberal Party, to mediate disputes under this Code. Such mediators will be appointed by a resolution carried by 75% of the Local Government Management Committee and by a resolution carried by at least 50% of State Executive.
- 6.2.2. Once the report to State Executive referred to in Clause 6.1.5 of this Code has been received by the State Director and Chairperson of the Local Government Management Committee, the Chairperson of the Local Government Management Committee in consultation with the State Director must appoint a mediator from the established panel to meet with the Liberal Group of Councillors in order to attempt to mediate and resolve the dispute.
- 6.2.3. If the Chairperson of the Local Government Management Committee is the subject of the allegation, the State Director must select a mediator from the Panel referred to in Clause 6.2.1 of this Code.
- 6.2.4. If following mediation the majority of Councillors present at the meeting referred to in Clause 6.2.2 of this Code resolve that the State Executive should not take disciplinary action in respect of the relevant complaint, State Executive cannot take disciplinary action in respect of the relevant complaint.
- 6.2.5. If following mediation the majority of Councillors present at the meeting referred to in Clause 6.2.2 of this Code resolve that the State Executive should take disciplinary action in respect of the relevant complaint, or the Councillors present at the meeting referred to in Clause 6.2.2 of this Code do not reach any resolution with respect to whether State Executive should take disciplinary action in respect of the relevant complaint, State Executive can take disciplinary action in respect of the relevant complaint, subject to clause 6.3 of this Code.

### 6.3. Issues of fact

- 6.3.1. If either circumstance referred to in Clause 6.2.5 of this Code arises, the State Director must direct the mediator appointed pursuant to clause 6.2.2 or 6.2.3 of this Code to prepare a report in which a determination is made as to the facts relevant to the matter in issue.
- 6.3.2. If a direction referred to in Clause 6.3.1 of this Code is made, the mediator must, in no more than 14 days after the direction is issued, prepare a written report in this regard, copies of which must be distributed to the State Director, who must, in turn, distribute the report to all relevant parties before any meeting of State Executive at which the report referred to in Clause 6.1.5 of this Code is considered.

### 6.4. Decision by State Executive

- 6.4.1. The State Director must bring the report of the Liberal Councillors before State Executive as soon as practicable after the report referred to in Clause 6.3.1 of this Code is delivered to the State Director. For the avoidance of doubt, State Executive cannot consider the report of the Liberal Councillors referred to in Clause 6.1.5 of this Code until the report referred to at clause 6.3.1 of this Code is delivered to the State Director, unless the relevant mediator does not comply with the State Director's direction to prepare a report within the timeframe stipulated at clause 6.3.2 of this Code.
- 6.4.2. When considering the report of the Liberal Group of Councillors, State Executive must also have regard to the report referred to at clause 6.3.1 of this Code and follow the Procedural Fairness provisions of Appendix 5 of the Constitution.
- 6.4.3. If, after considering the report of the Liberal Group of Councillors, State Executive resolves to adopt their report, State Executive can then, by further resolution:
  - 6.4.3.1. issue a reprimand to the relevant Councillor;  
or
  - 6.4.3.2. suspend the Liberal Party membership of the relevant Councillor pursuant to Clause 3.10.2(3) of the Constitution; or
  - 6.4.3.3. prohibit that Councillor from nominating for selection as a candidate for Federal, State

or Local Government office pursuant to Clause 21.2.1(3) of the Constitution.

- 6.4.4. The matters canvassed in the reports referred to in Clauses 6.1.5 and 6.3.1 of this Code and the matters discussed or referenced in any way at the mediation referred to in Clause 6.2.2 of this Code are confidential. These matters cannot be disclosed to any person except as contemplated by this Code or required by law.
- 6.4.5. For the avoidance of doubt, this Code does not limit the rights of State Executive, and particularly, its rights to discipline members, as set out in the Constitution.

#### **6.5. No Liberal Group of Councillors**

In Local Government Areas where there is no Liberal Group of Councillors a Local Government Conference may report a Councillor to State Executive via the State Director for an alleged breach of this Code. This is to be done through a written report to the State Director which must contain a summary of the facts related to the alleged breach of the Code. The State Director or nominee must investigate the alleged breach and make a recommendation to State Executive as to whether disciplinary action should be taken. State Executive must then consider the matter at the first available opportunity and, applying the Procedural Fairness provisions at Appendix 5 of the Constitution determine whether and, if so, what disciplinary action should be taken.

### **7. LOCAL GOVERNMENT MANAGEMENT COMMITTEE**

The Local Government Management Committee, the functions of which are outlined at Clause 8.5 of the Constitution, operates to provide advice to the State Executive on the Division's involvement in local government.

### **8. REVISION**

This Code will be revised within six months of each state wide Local Government Election.