



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

RULES & ETHICS COMMITTEE

1. **ITEM NUMBER: RLE 05/05/22**

2. **SUBJECT / ONDERWERP / ISIHLOKO:**

PROGRESS REPORT: MATTERS RECEIVING ATTENTION

VORDERINGSVERSLAG: AANGLEENTHEDE WAT AANDAG GENIET

INQUBO-NGXELO: INGXELO YEMIBANDELA ENGEKAGQITYWA

3. **PURPOSE**

To inform the members of the progress made on the matters receiving attention schedule.

Annexure A: Schedule of Matters Receiving Attention

MATTERS RECEIVING ATTENTION
RULES & ETHICS COMMITTEE
12 MAY 2022

NO.	REPORT REQUESTED	TARGET DATE FOR SUBMISSION	SUBJECT / RESOLUTION	RESPONSIBLE OFFICIAL	ACTION / COMMENT
1	10-Mar-22	14-Apr-22	<p>RLE 06/03/22 PRACTICAL IMPLEMENTATION OF RULE 9.1.13 OF THE RULES OF ORDER</p> <p>The Chairperson briefly outlined the history of this item, which originated from the previous term of office. He indicated that the Rules & Ethics Committee now has to agree to the practical implementation (as proposed by the Programming Committee) and propose an amendment of Rule 9.1.13 in order to finalize the matter and submit to Council for approval.</p> <p>Ald. Purchase indicated that presently the practical implementation of Rule 9.1.13, as proposed by the Programming Committee, was working well at Council meetings. The members expressed their satisfaction with the present practical implementation of the rule.</p> <p>After a brief discussion, the members agreed that the legal advisor submit a proposed amendment to Rule 9.1.13 to the next Rules & Ethics Committee meeting for consideration, indicating that matters for noting may be debated at Council meetings.</p> <p>RESOLVED that:</p> <p>a) the legal advisor to submit a proposed amendment to Rule 9.1.13 to the next Rules & Ethics Committee meeting for consideration, indicating that matters for noting may be debated at Council meetings;</p> <p>b) The matter be placed on the matters receiving attention schedule.</p>	P Qalazive	Report submitted vide item 06/04/22
		12-May-22	<p>At the previous meeting, Ms Qalazive submitted a proposed amendment to Rule 9.1.13 to the Rules & Ethics Committee for consideration.</p> <p>The members were in agreement with the proposed amendment subject to the following:</p>	Melany Levendall	Submitted too late to caucuses. Will receive comment from the caucuses at the next RLE meeting.

NO.	REPORT REQUESTED	TARGET DATE FOR SUBMISSION	SUBJECT / RESOLUTION	RESPONSIBLE OFFICIAL	ACTION / COMMENT
			<p>proposed that the Speaker's Office facilitate a workshop with the various caucuses to brief Councillors on the amendments to ensure that there is a broad understanding of these amendments.</p> <p>RESOLVED that:</p> <p>a) The Speaker's Office facilitate a workshop with the various caucuses to brief Councillors on the Amended Structures Act, particularly Section 37 of the Act, pertaining to the additional responsibilities given to the Speaker of a Municipal Council;</p> <p>b) That the item be placed on the matters receiving attention schedule until a report has been received to indicate that the workshop has taken place.</p>		advising that workshop took place.
3	10-Mar-22	14-Apr-22	<p>RLE 08/03/22 DRAFT A POLICY: COUNCILLOR DEVELOPMENT</p> <p>Ald. Purchase commented that there are a number of ongoing mandatory Councillor training presently underway. Additionally a development plan for individual Councillors was being prepared. Furthermore, Ald. Purchase indicated that it was envisaged that a schedule of training opportunities should be available for Councillors by May 2022.</p> <p>Ald. Sotashe commented that preliminary work had already begun by the previous Speaker in terms of a Councillor Development policy, He requested that the paperwork be resurfaced in order to continue the process of formalizing a policy for Councillor Development. Ald. Sotashe commented that a legal opinion was obtained in terms of Councillors who wish to further their education in line with the work that they were doing. Additionally, Ald. Sotashe indicated that legislation was already amended to allow municipalities to develop policies to assist Councillors to further their education.</p> <p>A brief discussion ensued in terms of legislation not making provision for Councillors to receive bursaries as indicated by SALGA. Cllr Sono commented that there was a distinct difference between empowering and developing Councillors and concurred with Ald. Sotashe that provision should be made in the Councillor Development Policy for Councillors to receive bursaries.</p> <p>The Chairperson requested that the Speaker provide a briefing at the next Rules & Ethics Committee meeting in terms of whether legislation makes provision, in any way, for a public representative to receive a bursary.</p>	Ald. Purchase	Briefing submitted vide item 08/04/22

NO.	REPORT REQUESTED	TARGET DATE FOR SUBMISSION	SUBJECT / RESOLUTION	RESPONSIBLE OFFICIAL	ACTION / COMMENT
		No set target date	<p>Ms Razack indicated that, whilst the previous Leadership & Development Portfolio Committee was not re-established, Mr James van As had indicated that he and his team were still working with the Speaker's office to identify training needs for Councillors.</p> <p>RESOLVED that:</p> <ul style="list-style-type: none"> a) Ald. Purchase provide a briefing at the next Rules & Ethics Committee meeting in terms of whether legislation makes provision, in any way, for a public representative to receive a bursary; b) The matter be placed on the matters receiving attention schedule. <p>Ald. Purchase indicated that her office along with the Policy Unit were in the process of updating the policy and will circulate it thereafter.</p>	Ald. Purchase	Policy being updated and will be circulated thereafter.
4	10-Mar-22	14-Apr-22 12-May-22	<p>RLE 07/03/22 DRAFT A POLICY: CODE OF ETHICS FOR COUNCILLORS</p> <p>Ald. Purchase indicated that there is an Ethics department within the City, which falls within the ambit of the City Manager. The Ethics department together with the City's Policy Unit, SALGA and other organizations were in the process of drafting an Ethics Policy.</p> <p>RESOLVED that the matter be placed on the matters receiving attention schedule.</p> <p>Ald. Purchase indicated that there has been progress made in respect of this matter. She indicated that she will give a briefing on progress made at the next meeting.</p> <p>RESOLVED that Ald. Purchase will provide a briefing on progress made at the next meeting.</p>	Ethics Department Ald. Purchase	The Ethics department is in the process of drafting an Ethics Policy Will provide a progress update at the meeting.
5	14-Mar-22	12-May-22	<p>RLE 09/04/22 REVIEW THE TERMS OF REFERENCE FOR THE RULES & ETHICS COMMITTEE</p> <p>The Chairperson proposed that the review of the Terms of Reference for the Rules & Ethics Committee and the Ward Committees be split into two separate items. Additionally, he requested that Ms Razack do a presentation on the Terms of Reference for the Rules & Ethics Committee</p>	R Razack	Ms Razack will present the Terms of Reference for the Rules & Ethics Committee, attached to the MRA schedule as item 5

NO.	REPORT REQUESTED	TARGET DATE FOR SUBMISSION	SUBJECT / RESOLUTION	RESPONSIBLE OFFICIAL	ACTION / COMMENT
			<p>at the next meeting. Thereafter, the members will indicate if there was a need to review the document.</p> <p>After an in-depth discussion regarding the Terms of Reference for Ward Committees, the members agreed that the Subcouncils should advise if there was a need to review the Terms of Reference for Ward Committees. Additionally, the members agreed that the review of the Terms of Reference for Ward Committees not be added to the matters receiving attention schedule at this stage.</p> <p>RESOLVED that:</p> <p>a) Ms Razack present the Terms of Reference for the Rules & Ethics Committee to the members with the understanding that the document be reviewed if required;</p> <p>b) The matter be included on the matters receiving attention schedule.</p>		
6	14-Mar-22	12-May-22	<p>RLE 10/04/22 CODE OF CONDUCT FOR COUNCILLORS</p> <p>Mr Nicol did a presentation on the Code of Conduct for Councillors.</p> <p>It was noted that the Schedule on the agenda was outdated. The Secretariat was requested to provide the members with the updated document (i.e. Schedule 7).</p> <p>After a brief discussion, it was agreed that the legal advisor would submit a report to the next meeting highlighting the amendments between Schedule 1 (Municipal Systems Act) and Schedule 7 (Structures Act). Thereafter the members will debate and identify which aspects need to be included in the ongoing training for Councillors.</p> <p>RESOLVED that:</p> <p>a) The legal advisor submit a report to the next meeting highlighting the amendments between Schedule 1 (Municipal Systems Act) and Schedule 7 (Structures Act).</p> <p>b) The matter be included on the matters receiving attention schedule.</p>	Z Kasker	The report has been included in the agenda, attached to the MRA schedule as item 6.
7	14-Mar-22	No set target date	<p>RLE 11/04/22 COUNCILLOR LEAVE POLICY</p> <p>Ald. Purchase indicated that the leave policy will be reviewed and submitted to the Rules & Ethics Committee once finalized.</p> <p>RESOLVED that the item be included on the matters receiving attention schedule.</p>	Ald. Purchase	The Policy Unit will review the policy, thereafter the Speaker will circulate- it.

NO.	REPORT REQUESTED	TARGET DATE FOR SUBMISSION	SUBJECT / RESOLUTION	RESPONSIBLE OFFICIAL	ACTION / COMMENT
8	14-Mar-22	12-May-22	<p>RLE 12/04/22 THE ROLE OF PEACE OFFICERS</p> <p>Ald. Sotashe indicated that he had no problem with the report submitted by the legal advisor. However, he stated that he had a problem with the fact that, previously, the use of the protection personal of the Executive Mayor (VIPs) and the Law Enforcement Officers were called upon as peace officers.</p> <p>Ald. Sotashe indicated that the current arrangement, in terms of peace officers, must be rectified. He proposed that, going forward, peace officers be identified and sent for relevant training. Additionally, Ald. Sotashe requested that these personnel, after undergoing the relevant training, be introduced to Council so that the Councillors are aware of them. Once this process has been rectified, the Speaker, in her capacity can exercise her authority in accordance with the Rules of Order.</p> <p>After a brief discussion, the members agreed that an opinion be obtained on the powers and functions of a peace officer. Thereafter, Ald. Purchase would engage the MAYCO member for Safety & Security in terms of identifying personnel from Metro Police (both males and females) to be trained as peace officers at Council meetings.</p> <p>RESOLVED that:</p> <p>a) A legal opinion be obtained on the powers and functions of a peace officer;</p> <p>b) That the matter be included on the matters receiving attention schedule.</p>	Z Kasker	<p>Mr Kasker indicated that he liaised with his Manager in respect of the subject matter and they were of the view that this opinion should be sourced externally.</p> <p>Mr Kasker will speak to the matter at the meeting.</p>



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

RULES & ETHICS COMMITTEE

MRA 5

**REVIEW THE TERMS OF REFERENCE
FOR THE RULES & ETHICS COMMITTEE**



Terms of Reference for the Rules and Ethics Committee

1. Introduction

Section 160(6) of the *Constitution* provides:

“A municipal council may make by-laws which prescribe rules and orders for:

- a) *Its internal arrangements;*
- b) *Its business and proceedings.”*

Rules of Order is a set of rules for conducting meetings in an orderly manner so as to make decisions effectively, allowing disciplined input and allowing any member to be heard. The Chairperson will use the rules to maintain order and for regulating procedural issues such as validity of meetings, quorums, minutes, voting procedures and order debate with mutual respect among its members. Rules of Order is thus an essential requisite and tool for effective and orderly meetings.

Section 37 (d) and (f) of the Local Government Municipal Structures Act No. 117 of 1998 stipulates that the Speaker of a municipal council “*must maintain order during meetings*” and “*ensure that council meetings are conducted in accordance with the rules and orders of the council*”.

Council on 15 December 2021 by way of resolution number C08/12/21 adopted *Rules of Order for Section 79 and 80 Committees of Council*.

The Terms of Reference in this document set out the working arrangements and list vital information about the committee such as the details of its role, powers and duties, chair and membership and administrative support.

2. Role

The role of the Rules and Ethics committee may require:

- Briefings;
- Considerations of reports;
- Scrutiny of relevant documents;
- Supply of relevant information;
- Physical access to relevant records, books and other documentation;
- Posing questions in council;
- Tracking of inputs, processes, activities, outputs and outcomes against indicators;
- Input from all political parties to be forwarded to this committee for consideration;
- Amending and reviewing Rules of Order when necessary.
- The development of guidelines/frameworks for councilors on Ethics matters
- May request reports on specific court cases involving Council
- May request reports from the Office of the Ombudsman

3. Term

The Rules and Ethics Committee was established by Council on 15 December 2021 resolution C07/12/21. The Terms of Reference was approved by Council on 27 January 2022 resolution C25A/01/22 and shall remain until amended by resolution of Council.

4. Membership

The Committee will comprise of a Chairperson, and members of Council appointed in terms of section 79 (1)(b) and (2)(c) of the *Local Government: Municipal Structures Act No. 117 of 1998 and Regulations* and in accordance with section 160(8)(a) of the *Constitution of the Republic of South Africa, 1996 and Regulations* which requires that such committees be constituted in a manner that allows parties and interests reflected within the Council to be fairly represented. The updated committee membership is reflected in the “All Council committees” membership list available on the City web, via the link below:

<http://cityweb.capetown.gov.za/en/councilonline/Pages/Information.aspx>

The Speaker of Council shall be a standing member of this committee.

5. Responsibilities

Chairperson:

Definition:

A councillor appointed in terms of sect 79(2)(c) of the Local Government: Municipal Structures Act No. 117 of 1998 and Regulations by the Council of the City of Cape Town to serve as a member of the Rules and Ethics Committee

Responsibilities:

- 5.1 Chair the meeting or in his/her absence the Committee will nominate one of its members;
- 5.2 Set the agenda;
- 5.3 Hold the committee members to account;
- 5.4 Exercise overall responsibility for the work program of the committee.

Deliverables

- Performance appraisals of committee members.
- Remedial action plans to enhance the Committee’s performance.
- Sign the minutes of meetings of the Rules and Ethics Committee.

Committee member:

Definition:

A councillor appointed in terms of sect 79(2)(c) of the Local Government: Municipal Structures Act No. 117 of 1998 and Regulations by the Council of the City of Cape Town to serve as a member of the Rules and Ethics Committee.

Responsibilities:

- 5.5 Members must be fully prepared for the Rules and Ethics Committee meetings and are expected to attend each meeting in accordance with the Code of Conduct and Rules of Order governing the meetings of Section 79 Committees.

Committee:

The Rules and Ethics Committee generally sets the forum under which a proposal to Council or its committees will be debated. This would include control over amendments to recommendations, for instance, there might be a process in the way in which amendments are decided on or a limit on the number or types of amendments.

Besides control over amendments, the Rules of Order proposed by the Rules and Ethics Committee to Council for adoption, also determines control over debate at Council and meetings by proposing for example the amount of speaking time assigned to each matter on an agenda and ensure in general that meetings of Council and its committees are conducted in an orderly and constructive manner which protects the rights of its members and promotes democratic decision-making.

- 5.6 In accordance with Council’s System of Delegations, the Committee will develop and recommend to Council, Rules of Order for Council and its section 79 and 80 Committees.

- 5.7 Will consider and recommend to Council, any revisions to the rules mentioned in 5.6 above which may be referred to it by Council or the chairperson of the Programming Committee.

The Rules and Ethics committee may also consider and make recommendations to Council on the following matters:

- 5.8 Nominations for Civic Honours and Freedom of the City awards
 5.9 Outside/Private work applications for full-time councillors
 5.10 Naming and renaming of Council immovable assets in line with the public participation processes (excluding new streets and unnamed streets which are covered by Subcouncil delegation Part 24: 12(1) of the delegations)
 5.11 Review and propose amendments to the Delegations for Council and its committees
 5.12 Development of guidelines/ frameworks for councilors on Ethics matters

NB: The Council's System of Delegations document further sets out all general and/or specific delegations of this committee

6. Authority, accountability and reporting

The Rules and Ethics Committee is a committee of Council established in terms of section 79 of the Local Government: Municipal Structures Act No. 117 of 1998. In terms of section 79(2) the municipal Council:

- (a) *Must determine the functions of a committee*
- (b) *May delegate duties and powers to it*
- (f) *May determine a committee's procedure*

- 6.1 The Chairperson must submit minutes of all meetings to the municipal council on a quarterly basis in accordance with the requirements of the System of Delegations.

7. Meeting procedures

7.1 Rules of Order

The *Constitution* provides that:

"A municipal council may make by-laws which prescribe rules and orders for:

- a) *Its internal arrangements;*
- b) *Its business and proceedings."*

Council on 15 December 2021 by way of resolution number C08/12/21 adopted *Rules of Order for Section 79 and 80 Committees of Council*. Such Rules govern the meeting procedures of this committee.

7.2 Quorum

Rule number 7.1:

"The quorum for a meeting of a section 79 Committee is a majority of its members."

7.3 Frequency of meetings:

- 7.3.1 Meetings of the Committee will be held in accordance with the meetings scheduled in the approved Council calendar of meetings.
- 7.3.2 Special Meetings to be called as the need arises in terms of the Rules of Order.

7.4 Meeting: Agendas, Minutes and Logistics

- 7.4.1 Electronic agendas must be distributed at least 72 hours prior to a meeting for preparation purposes. Executive Committee Services will at all times strive to circulate Volume 1 no later than 5 days before the meeting. Any late reports approved by the Chairperson for inclusion on the agenda, will form part of subsequent volumes.

- 7.4.2 Executive Committee Services provides secretarial, administrative support and logistical support to the Committee. The relevant line departments provide the Committee with support of a technical nature and are also responsible for secretarial support with respect to any workshops arranged by the Rules and Ethics Committee.
- 7.4.3 The minutes of meetings once confirmed and approved by members of the Rules and Ethics Committee must be signed and each page thereof initialed by the Chairperson and managed in accordance with paragraph 7.4.4. The Chairperson must sign and initial the confirmed minutes within 7 working days after the meeting at which it was confirmed.
- 7.4.4 Appropriate record management of Rules and Ethics Committee activities must be maintained and published subject to Council-approved processes.
- 7.4.5 Legal advisory services to the Rules and Ethics Committee shall be rendered by the City's Legal Services Department and a legal advisor shall be present at all meetings of the committee.
- 7.5 General
- 7.5.1 The Committee will formalise operational processes, systems and procedures as necessary for the performance of its terms of reference, in consultation with the relevant Executive Director(s) and Executive Services.
- 7.5.2 The Committee uses a schedule of outstanding matters to keep track of the various stages of the Committee's review process with respect to each of the reports or topics under consideration.
- 7.5.3 The Committee must deal with all matters, within its delegations, as instructed by Council. It is therefore important to prioritise the items on the schedule of outstanding matters.

8. Relationship and Interaction

- 8.1 Chairperson will regularly meet with the Speaker of Council as an ex officio member of this committee to discuss issues of concern, for strategic guidance and political direction.
- 8.2 Chairperson will regularly meet with the Executive Director(s) who provide support, advise and assist in ensuring an integrated approach to the management and delivery of Council's priorities and objectives.

9. Performance Evaluation

The Committee will annually report on their performance to Council. Such report will:

- Give account of how the committee executed their assigned functions and responsibilities;
- Clarify and justify their decisions or actions; and
- Explain how the committee went about amending any fault or error found when exercising their oversight role and took steps to prevent recurrence in future.

10. Dispute Resolution

Not applicable - the Rules and Ethics Committee makes recommendations to Council. Council takes the decisions so the dispute resolution application to Council will apply, in terms of the Promotion of Administrative Justice Act.

11. Approval, Amendment, Modification or Variation

These Terms of Reference may be reviewed as deemed appropriate. Amendments to the Terms of Reference are subject to approval by the municipal council and will be applicable from date of approval until amended by the municipal council. The approved Terms of Reference will be published on the municipal website to promote awareness to all stakeholders.



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

RULES & ETHICS COMMITTEE

MRA 6

A COMPARISON BETWEEN THE CODE
OF CONDUCT FOR COUNCILLORS AS
NOW CONTAINED IN THE LOCAL
GOVERNMENT: MUNICIPAL
STRUCTURES ACT TO THE CODE OF
CODE AS IT WAS CONTAINED IN THE
LOCAL GOVERNMENT: MUNICIPAL
SYSTEMS ACT 32 OF 2000



MEMORANDUM

Date: 21 April 2022

To: Rehana Razack
Melany Lavendall

RE: A COMPARISON BETWEEN THE CODE OF CONDUCT FOR COUNCILLORS AS NOW CONTAINED IN THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT TO THE CODE OF CODE FOR AS IT WAS CONTAINED THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 32 OF 2000

INSTRUCTIONS

1. The legal advisor was requested by the Rules and Ethics Portfolio Committee members to submit a report indicating whether or not the Councillors Code of Conduct (the Code of Conduct) has been amended in any way by the Local Government: Municipal Structures Amendment Act 3 of 2021 (the Structures Act) to the next Rules & Ethics Committee meeting for consideration.
2. In lieu of the above, the members of the Portfolio Committee requested these amendments, if any, be highlighted and be brought to the members' attention.
3. For ease of reference this briefing will be limited to a comparison between the Schedules in question, where further clarity is required by the members on specific aspects this can be addressed in a supplementary briefing.

BACKGROUND

4. Prior to the amendment of the Structures Act, the Code of Conduct was found in Schedule 1 of the Local Government: Municipal Systems Act 32 of 2000 (the Systems Act). As a result of the amendment the Code of Conduct is now found under Schedule 7 of the Structures Act.

5. For ease of reference, and to avoid any confusion a comparison will only be provided where amendments have been affected.
6. In the event that no amendments have been affected this will be indicated.

ASSESSMENT OF SCHEDULES

7. The 'Preamble', 'Definitions' (Item 1) and the 'General conduct of councillors' (Item 2), save for Item 2(a), have been unaffected by the amendment.
 - a. Item 2(a) had a minor amendment affected to it;
"2. A councillor must—
(a) perform the functions of office in good faith, honestly and ***in*** a transparent manner..."
8. Item 3 of Schedule 7 had not previously formed part of the Code of Conduct, the following has been **inserted**:
 - a. Item 3 now reads:

"Voting at meetings
3. A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council, which conflicts with any legislation applicable to local government."
9. Due to the insertion of 'Voting at meetings' i.e. Item 3, when now comparing Schedule 1 and Schedule 7 the numbering will no longer align. To avoid any confusion, from here on reference will be made to the headings for the purpose of the comparison. However, where an item number is referred to reference is made to the Item number as encompassed in Schedule 7 of the Structures Act unless expressed otherwise.
10. 'Attendance at meetings'
 - a. No amendment affected.

11. 'Sanctions for non-attendance of meetings'

a. In terms of content the Item has not been amended. However, Item 4 (3) of Schedule 1 has been subcategorised and has been highlighted to indicate the amendment.

i. Item 4 (3) of Schedule 1 read:

*"Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item. **The uniform standing procedure must comply with the rules of natural justice.**"*

ii. Item 5 (3) of Schedule 7 now reads:

"(3) (a) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item.

***(b) The uniform standing procedure must comply with the rules of natural justice.**"*

12. 'Disclosure of Interests'

a. The following was **deleted** from Item 5 (2) of Schedule 1:

i. *"A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council **et which it is possible for the councillor to make the disclosure.**"*

b. Item 6 (2) of Schedule 7 reads as follows:

i. *"A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council."*

13. 'Personal gain'

a. Items 6 (2) and 6 (3) of Schedule 1 has been **deleted** entirely;

i. ~~"(2) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council.~~

~~"(3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality."~~

b. The following was **inserted** into Schedule 7 of the Code of Conduct as Item 7(2):

i. "(2) No councillor may be a party to or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality."

14. 'Declaration of interests'

a. No amendment affected.

15. 'Full time Councillor'

a. No amendment affected.

16. 'Reward, gifts and favours'

a. No amendment affected.

17. 'Unauthorised disclosure of information'

a. No amendment affected.

18. *'Interference in administration'*

- a. The heading of the Item has been changed from *'Intervention in administration'* (Item 11 in Schedule 1) to *'Interference in administration'*. The contents of the Item is however the same.

19. *'Municipal property'*

- a. The heading of the Item has been changed from *'Council property'* (Item 12 of Schedule 1) to *'Municipal Property'* (Item 13 of Schedule 7). The contents of the Item is however the same

20. *'Councillor in arrears'*

- a. Item 14 of Schedule 7 of the Code of Conduct did not form part of the Code of Conduct before. The following was **inserted**:

- i. ***"Councillor in arrears***

- A councillor may not be in arrears to the municipality for rates and service charges for a period longer than three months."*

21. *'Breaches of Code'*

- a. The heading of the Item has been changed from *'Duty of chairpersons of municipal councils'* (Item 13 of Schedule 1) to *'Breaches of Code'* (Item 15 of Schedule 7).

- b. Reference to *'Chairperson'* (Schedule 1) has been replaced with *'Speaker'* (Schedule 7) under this Item.

- c. In addition, Item 15 (5) has been **inserted**:

- i. *"(5) If the speaker of council is the alleged perpetrator, or the speaker refuses to authorise an investigation, the council must establish a special committee, as contemplated in Item 16(1)(b), to investigate and make a finding on any alleged breach of this Code."*

22. 'Investigation of breach'

- a. The heading of the Item has been changed from 'Breaches of Code' (Item 14 of Schedule 1) to 'Investigation of Breach' (Item 16 of Schedule 7).
- b. Item 16 (3) has been **inserted**:
 - i. "(3) *The speaker must inform the MEC for local government in the province concerned within 14 days of the finding and sanction decided on by the council.*"
- c. Item 16 (4) (b) has **inserted** the following phrase into the Code of Conduct:
 - i. "A copy of the appeal must be provided to the council **by the MEC.**"
- d. Item 16 (5) has **inserted** the following into the Code of Conduct:
 - i. "The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as **to the appropriate sanction in terms of subitem (2) if a municipal council does not conduct an investigation contemplated in subitem (1) and the MEC for local government considers it necessary.**"
- e. Item 16 (6) has **inserted** the following into the Code of Conduct:
 - i. "The Commissions Act, 1947 (Act No. 8 of 1947), or, **where appropriate, applicable provincial legislation,** may be applied to an investigation in terms of subitem (4)."
- f. Item 16 (8) has been **inserted** into the Code of Conduct:
 - i. "Any investigation in terms of this item and any action by the MEC in terms of subitem (7) **must be in accordance with section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).**"

23. 'Application of Code to traditional leaders'

a. Item 17 (7) has **inserted** the following into the Code of Conduct:

i. "Any investigation in terms of this item **and any action by the MEC in terms of subitem (6)** must be in accordance with the rules of natural justice."

24. The Amendment Act has repealed Schedule 1 of the Systems Act.

CONCLUSION

25. The above provides an overview of the amendments, as requested by the members', which have been affected by the Local Government: Municipal Structures Amendment Act 3 of 2021 to the Councillors Code of Conduct.

*This memorandum is based on the information provided at drafting and is for internal use only. This document **may not** be forwarded to any non-City officials or third parties **without the express written consent** from Legal Services.*

Legal Services reserves its right to review, amend and/or supplement this memorandum if new and/or additional information is provided to writer after submission.

Please feel free to contact writer should you have any further queries.

Zareef Kasker
Digitally signed
by Zareef Kasker
Date: 2022.04.21
08:05:55 +02'00'

Zareef Kasker

Legal Advisor