



# Board of Management

18 November 2020



local councils working together to protect the health of the community





**EASTERN HEALTH AUTHORITY  
BOARD OF MANAGEMENT MEETING**

**WEDNESDAY – 18 November 2020**

Notice is hereby given that a meeting of the Board of Management of the Eastern Health Authority will be held at the EHA Offices, **101 Payneham Road, St Peters** on Wednesday 18 November 2020 commencing at 6.30 pm.

A light meal will be served at 6.00 pm.

A handwritten signature in black ink, appearing to read 'M. Livori', is positioned above the printed name and title.

**MICHAEL LIVORI  
CHIEF EXECUTIVE OFFICER**



# AGENDA

## EASTERN HEALTH AUTHORITY BOARD OF MANAGEMENT MEETING

WEDNESDAY – 18 November 2020

Commencing at 6.30 pm

- 1 Opening
- 2 Apologies
- 3 Confirmation of minutes – 9 September 2020
- 4 Matters arising from the minutes

Page No

5	Administration report	
5.1	Finance Report and First (September 2020) Budget Review for 2020/2021 .....	7
	5.1 Attachment 1 .....	11
	5.1 Attachment 2 .....	14
	5.1 Attachment 3 .....	17
5.2	Eastern Health Authority 2020 Charter Review .....	18
	5.2 Attachment 1 .....	20
	5.2 Attachment 2 .....	23
5.3	Eastern Health Authority Work Health and Safety and Return to Work Policy.....	55
	5.3 Attachment 1 .....	56
5.4	Code of Conduct for Eastern Health Authority Board Members .....	60
	5.4 Attachment 1 .....	62
	5.4 Attachment 2 .....	73

5.5	Code of Conduct for Eastern Health Authority Employees.....	82
	5.5 Attachment 1 .....	84
	5.5 Attachment 2 .....	89
5.6	Complaints Handling Policy & Internal Review of a Decision Procedure .....	95
	5.6 Attachment 1 .....	97
	5.6 Attachment 2 .....	106
	5.6 Attachment 3 .....	113
5.7	Review of the Food Business Inspection Fee Policy .....	119
	5.7 Attachment 1 .....	121
	5.7 Attachment 2 .....	128
6	Information reports	
	6.1 Environmental Health Activity Report.....	134
	6.2 Immunisation.....	146
7	Closure of meeting	

## 5.1 FINANCE REPORT AND FIRST (SEPTEMBER 2020) BUDGET REVIEW FOR 2020/2021

Author: Michael Livori

Ref: AF19/143

### Summary

So that members can ensure that Eastern Health Authority (EHA) is operating according to its adopted budget, financial performance is regularly monitored, and statutory budget reviews are considered.

In accordance with regulation 9 of the *Local Government (Financial Management) Regulations 2011*,

- (1) *A council, council subsidiary or regional subsidiary must prepare and consider the following reports:*
- (a) *at least twice, between 30 September and 31 May (both dates inclusive) in the relevant financial year (where at least 1 report must be considered before the consideration of the report under sub regulation (1)(b), and at least 1 report must be considered after consideration of the report under sub regulation (1)(b))—a report showing a revised forecast of its operating and capital investment activities for the relevant financial year compared with the estimates for those activities set out in the budget presented in a manner consistent with the note in the Model Financial Statements entitled Uniform Presentation of Finances;*
  - (b) *between 30 November and 15 March (both dates inclusive) in the relevant financial year—a report showing a revised forecast of each item shown in its budgeted financial statements for the relevant financial year compared with estimates set out in the budget presented in a manner consistent with the Model Financial Statements.*

This report provides the first of the budget reviews required in accordance with regulation 9 (1) and relates to the financial performance of EHA between 1 July 2020 and 30 September 2020. It provides the opportunity to amend the adopted budget in line with revised projections of income and expenditure for the 2020/2021 financial year.

### Report

The table below gives a simple analysis of year to date income, expenditure and operating result.

Eastern Health Authority - Financial Statement (Level 1)				
1 July 2020 to 30 September 2020				
	Actual	Budgeted	\$ Variation	% Variation
Total Income	\$970,708	\$1,005,586	(\$34,878)	-3%
Total Expenditure	\$618,708	\$653,685	\$ (34,977)	-5.4%
Operating Result	\$ 352,000	\$ 351,900	\$ 99	0%

The table shows that for the reporting period income was **(\$34,878) (-3%)** less than budgeted and expenditure was \$34,977 (-5.4%) less than budgeted. The net result is a variation of \$99 (0%) on the budgeted year to date comparative operating result.

More detailed information is provided in Attachment 1. The attachment provides detail on year to date performance of individual budget lines. Any variation greater than \$5,000 is detailed in the table below with explanatory comments.

Summary Table of Funding Statement Variations				
Income				
Favourable variances are shown in <b>black</b> and <b>unfavourable</b> variances are shown in <b>green</b> .				
Description	YTD Budget	YTD Actual	YTD Variation	Comment
<b>Income</b>				
Fines and Expiations	\$12,497	\$57	<b>(\$12,440)</b>	No expiations issued this period. No variation requested at this point in time.
Clinic Vaccines	\$20,000	\$25,056	<b>(\$12,242)</b>	YTD decrease in fee vaccines purchased at clinics No variation requested at this point in time.
Service Review	\$0	\$0	<b>\$0</b>	Reduction of ToW cost share. Variation of <b>(\$8K)</b> requested.
<b>Total of Income Variations Requested</b>				<b>(\$8,000)</b>
Expenditure				
Favourable variances are shown in <b>black</b> and <b>unfavourable</b> variances are shown in <b>green</b> .				
Description	YTD Budget	YTD Actual	YTD Variation	Comment
<b>Expenditure</b>				
Salaries and Wages	\$409,045	\$384,790	<b>(\$24,255)</b>	Staff on long term leave No variation requested at this point in time.
Vehicle Leases/Maintenance	\$17,000	\$4,008	<b>(\$12,991)</b>	Application of AASB Standard 16 Leases – impact on vehicle leases Variation of <b>(\$55,000)</b> requested



Rent	\$26,824	\$2,457	<b>(\$24,367)</b>	Application of AASB Standard 16 Leases – impact on rent. Variation of <b>(\$108,000)</b> requested
Service Review	\$0	\$0	\$0	Reduction of ToW cost share. Variation of <b>(\$8K)</b> requested.
Finance Charges	\$0	\$4,352	<b>\$4,352</b>	Application of AASB Standard 16 Leases – recognise amortisation of leases. Variation of <b>\$40,000</b> requested.
Depreciation, amortisation, and impairment	\$0	\$42,102	<b>\$42,102</b>	Application of AASB Standard 16 Leases – recognise interest on leases. Variation of <b>\$143,000</b> requested
<b>Total of Expenditure Variations Requested</b>				<b>\$12,000</b>
<b>Net Result of Variations Requested</b>				<b>\$20,000</b>

### **Adjustments required due to Impact of Australian Accounting Standards Board (AASB) Standard 16 Leases.**

A significant number of variations detailed above are a result of the introduction of AAASB Standard 16 Leases (the new Standard).

The new Standard introduces a new model requiring lessees to recognise all leases on their balance sheet (rather than being presented as operating leases), except for short-term leases and leases of low value assets. The changes have had an impact on the Balance Sheet and Income Statement.

The net impact on the budget has seen a \$20,000 reduction in the Net Surplus/Deficit from \$0 to **(\$20,000)**.

The Funding Result has not changed and remains at **(\$19,090)**.

### **Adjustments relating to 2019/2020 Audit**

The first budget review for the financial year is required to take into account any differences between the adopted financial statements for 2019/2020 and the audited financial statements for the previous year. The relevant figures from the 2019/2020 audited financial statements have now been incorporated into the financial statement for 2020/2021. The incorporation of these figures has no impact on the estimated operating result.

Included as Attachment 2 is a copy of the revised 2020/2021 Budgeted Statutory Financial Statements which include the:

- Revised Statement of Comprehensive Income
- Revised Statement of Cash flows
- Revised Statement of Financial Position
- Revised Statement of Changes in Equity

A Bank Reconciliation and Available Funds report for the period ending 30 September 2020 is provided as Attachment 3. It shows that at 30 September 2020 available funds were \$91,698.96 in comparison with \$167,920.71 on 30 June 2020.

#### **RECOMMENDATION**

That:

1. The Finance Report and First (September 2020) Budget Review for 2020/2021 report be received.
2. The revised financial forecast for 2020/2021 is noted.

<b>Eastern Health Authority - Financial Statement (Level 3)</b>				
<b>1 July 2020 to 30 September 2020</b>				
<b>Income</b>	<b>Actual</b>	<b>Budgeted</b>	<b>\$ Variation</b>	<b>% Variation</b>
<b>Constituent Council Income</b>				
City of Burnside	\$219,066	\$219,066	\$0	0%
City of Campbelltown	\$226,274	\$226,274	\$0	0%
City of NPS	\$293,154	\$293,154	\$0	0%
City of Prospect	\$105,328	\$105,328	\$0	0%
Town of Walkerville	\$51,516	\$51,516	\$0	0%
<b>Total Constituent Council Contributions</b>	<b>\$ 895,338</b>	<b>\$ 895,338</b>	<b>\$0</b>	<b>0%</b>
<b>Statutory Charges</b>				
Food Inspection fees	\$22,536	\$27,497	<b>(-\$4,962)</b>	<b>-18%</b>
Legionella registration and Inspection	\$1,471	\$1,752	<b>(-\$282)</b>	<b>-16%</b>
Fines & Expiation Fees	\$57	\$12,497	<b>(-\$12,440)</b>	<b>-100%</b>
<b>Total Statutory Charges</b>	<b>\$ 24,063</b>	<b>\$ 41,746</b>	<b>(-\$17,683)</b>	<b>-42%</b>
<b>User Charges</b>				
Immunisation - PHN Project	\$25,000	\$25,000	\$0	0%
Immunisation - Clinic Vaccines	\$12,242	\$20,000	<b>(-\$7,758)</b>	<b>-39%</b>
Immunisation - Clinic Service F	\$240	\$0	\$240	0%
Food Auditing	\$9,706	\$10,997	<b>(-\$1,291)</b>	<b>-12%</b>
<b>Total User Charges</b>	<b>\$ 47,188</b>	<b>\$ 55,997</b>	<b>(-\$8,809)</b>	<b>-16%</b>
<b>Grants, Subsidies, Contributions</b>				
Child Immunisation register	\$2,712	\$7,006	<b>(-\$4,294)</b>	<b>-61%</b>
<b>Total Grants, Subsidies, Contributions</b>	<b>\$ 2,712</b>	<b>\$ 7,006</b>	<b>\$ (4,294)</b>	<b>-61%</b>
<b>Investment Income</b>				
Interest on investments	\$728	\$3,750	<b>\$ (3,022)</b>	<b>-81%</b>
<b>Total Investment Income</b>	<b>\$ 728</b>	<b>\$ 3,750</b>	<b>\$ (3,022)</b>	<b>-81%</b>
<b>Other Income</b>				
Motor Vehicle re-imburements	\$573	\$0	\$ 573	0%
Sundry Income	\$107	\$1,750	<b>\$ (1,643)</b>	<b>-94%</b>
<b>Total Other Income</b>	<b>\$ 680</b>	<b>\$ 1,750</b>	<b>\$ (1,070)</b>	<b>-61%</b>
<b>Total of non Constituent Council Income</b>	<b>\$ 75,370</b>	<b>\$ 110,249</b>	<b>\$ (34,879)</b>	<b>-32%</b>
<b>Total Income</b>	<b>\$ 970,708</b>	<b>\$ 1,005,586</b>	<b>\$ (34,879)</b>	<b>-3%</b>

<b>Eastern Health Authority - Financial Statement (Level 3)</b>				
<b>1 July 2020 to 30 September 2020</b>				
<b>Expenditure</b>	<b>Actual</b>	<b>Budgeted</b>	<b>\$ Variation</b>	<b>% Variation</b>
<b>Employee Costs</b>				
Salaries & Wages	\$384,790	\$409,044	\$ (24,255)	-6%
Superannuation	\$31,746	\$34,997	\$ (3,251)	-9%
Workers Compensation	\$4,263	\$4,500	\$ (237)	-5%
Medical Officer Retainer	\$1,364	\$1,500	\$ (136)	-9%
<b>Total Employee Costs</b>	<b>\$ 422,162</b>	<b>\$ 450,041</b>	<b>\$ (27,879)</b>	<b>-6%</b>
<b>Prescribed Expenses</b>				
Auditing and Accounting	\$16,848	\$17,000	\$ (153)	-1%
Insurance	\$8,941	\$6,759	\$ 2,182	32%
Maintenance	\$9,489	\$11,250	\$ (1,761)	-16%
Vehicle Leasing/maintenance	\$4,008	\$16,999	\$ (12,991)	-76%
<b>Total Prescribed Expenses</b>	<b>\$ 39,285</b>	<b>\$ 52,008</b>	<b>\$ (12,723)</b>	<b>-61%</b>
<b>Rent and Plant Leasing</b>				
Electricity	\$2,623	\$2,503	\$ 120	5%
Plant Leasing Photocopier	\$871	\$874	\$ (3)	0%
Rent	\$2,457	\$26,824	\$ (24,367)	-91%
Water	\$126	\$75	\$ 51	0%
Gas	\$0	\$750	\$ (750)	0%
<b>Total Rent and Plant Leasing</b>	<b>\$ 6,077</b>	<b>\$ 31,026</b>	<b>\$ (24,949)</b>	<b>-80%</b>
<b>IT Licensing and Support</b>				
IT Licences	\$25,419	\$26,561	\$ (1,142)	-4%
IT Support	\$9,409	\$9,912	\$ (503)	-5%
Internet	\$1,696	\$2,503	\$ (807)	-32%
IT Other	\$114	\$501	\$ (387)	-77%
<b>Total IT Licensing and Support</b>	<b>\$ 36,638</b>	<b>\$ 39,477</b>	<b>\$ (2,839)</b>	<b>-7%</b>
<b>Administration</b>				
Administration Sundry	\$1,712	\$1,500	\$ 212	14%
Accreditation Fees	\$1,187	\$750	\$ 437	58%
Board of Management	\$1,272	\$3,000	\$ (1,728)	-58%
Bank Charges	\$630	\$1,000	\$ (370)	-37%
Public Health Sundry	\$641	\$1,250	\$ (609)	-49%
Fringe Benefits Tax	\$4,379	\$4,000	\$ 379	0%
Legal	\$6,882	\$4,999	\$ 1,883	38%
Printing & Stationery & Postage	\$4,000	\$6,251	\$ (2,251)	-36%
Telephone	\$5,355	\$4,753	\$ 602	13%
Occupational Health & Safety	\$1,820	\$2,500	\$ (680)	-27%
Rodenticide	\$612	\$499	\$ 113	23%
Staff Amenities	\$364	\$1,751	\$ (1,388)	-79%
Staff Training	\$1,439	\$5,501	\$ (4,062)	-74%
Human Resource Sundry	\$1,158	\$4,001	\$ (2,843)	0%
<b>Total Administration</b>	<b>\$ 31,450</b>	<b>\$ 41,755</b>	<b>\$ (7,461)</b>	<b>-18%</b>

<b>Eastern Health Authority - Financial Statement (Level 3)</b>				
<b>1 July 2020 to 30 September 2020</b>				
<b>Expenditure</b>	<b>Actual</b>	<b>Budgeted</b>	<b>\$ Variation</b>	<b>% Variation</b>
<b>Immunisation</b>				
Immunisation SBP Consumables	\$1,292	\$2,250	\$ (958)	-43%
Immunisation clinic vaccines	\$8,587	\$13,500	\$ (4,913)	-36%
<b>Total Immunisation</b>	<b>\$ 9,879</b>	<b>\$ 15,750</b>	<b>\$ (5,871)</b>	<b>-37%</b>
<b>Uniforms/Income protection</b>				
Income Protection	\$20,691	\$23,000	\$ (2,309)	100%
<b>Total Uniforms/Income protection</b>	<b>\$ 20,691</b>	<b>\$ 23,000</b>	<b>\$ (2,309)</b>	<b>100%</b>
<b>Sampling</b>				
Legionella Testing	\$423	\$375	\$48	0%
Food Sampling	\$0	\$253	\$ (253)	-100%
<b>Total Sampling</b>	<b>\$ 423</b>	<b>\$ 628</b>	<b>\$ (205)</b>	<b>-100%</b>
<b>Finance Costs</b>				
Interest - Building Lease	\$10,000	\$0	\$10,000	0%
<b>Total Finance Costs</b>	<b>\$10,000</b>	<b>\$0</b>	<b>\$10,000</b>	<b>0%</b>
<b>Total Materials, contracts and other expenses</b>	<b>\$ 154,444</b>	<b>\$ 203,644</b>	<b>\$ (46,357)</b>	<b>-23%</b>
<b>Depreciation</b>	<b>\$ 37,750</b>	<b>\$ -</b>	<b>\$ 37,750</b>	<b>\$ -</b>
<b>Finance Costs</b>	<b>\$ 4,352</b>	<b>\$ -</b>	<b>\$ 4,352</b>	<b>\$ -</b>
<b>Total Operating Expenditure</b>	<b>\$ 618,708</b>	<b>\$ 653,685</b>	<b>\$ (34,977)</b>	<b>-5.4%</b>
<b>Total Operating Income</b>	<b>\$ 970,708</b>	<b>\$ 1,005,586</b>	<b>\$ (34,879)</b>	<b>-3%</b>
<b>Operating Result</b>	<b>\$ 352,000</b>	<b>\$ 351,901</b>	<b>\$ 99</b>	<b>0%</b>

EASTERN HEALTH AUTHORITY STATEMENT OF COMPREHENSIVE INCOME				
FOR THE YEAR ENDING 30 JUNE 2021				
AUDITED RESULTS 2019/2020		ADOPTED BUDGET 2020/2021	SEPTEMBER REVIEW	REVISED BUDGET 2020/2021
	<b>INCOME</b>			
1,757,120	Council Contributions	1,790,674	(8,000)	1,782,674
46,451	Public Health Plan / Service Review Contributions	40,000	-	32,000
72,447	Statutory Charges	180,500	-	180,500
330,134	User Charges	272,000	-	272,000
245,618	Grants, subsidies and contributions	252,000	-	252,000
8,183	Investment Income	15,000	-	15,000
4,031	Other Income	7,000	-	7,000
2,463,984	<b>TOTAL INCOME</b>	<b>2,557,174</b>	<b>(8,000)</b>	<b>2,541,174</b>
	<b>EXPENSES</b>			
1,636,215	Employee Costs	1,762,000	-	1,762,000
594,507	Materials, contracts and other expenses	737,300	(171,000)	566,300
56,305	Finance Charges	7,874	40,000	47,874
190,358	Depreciation	50,000	143,000	193,000
2,477,385	<b>TOTAL EXPENSES</b>	<b>2,557,174</b>	<b>12,000</b>	<b>2,569,174</b>
(13,401)	Operating Surplus/(Deficit)	-	(20,000)	(28,000)
	Net gain (loss) on disposal of assets	-	-	-
(13,401)	Net Surplus/(Deficit)	-	(20,000)	(28,000)
(13,401)	Total Comprehensive Income	-	(20,000)	(28,000)

EASTERN HEALTH AUTHORITY STATEMENT OF CASH FLOWS FOR THE YEAR ENDING 30 JUNE 2021				
AUDITED RESULTS 2019/2020		ADOPTED BUDGET 2020/2021	SEPTEMBER REVIEW	REVISED BUDGET 2020/2021
	<b>CASHFLOWS FROM OPERATING ACTIVITIES</b>			
	Receipts			
1,983,928	Council Contributions	1,830,674	(8,000)	1,822,674
72,447	Fees & other charges	180,500	-	180,500
373,345	User Charges	272,000	-	272,000
7,234	Investment Receipts	15,000	-	15,000
245,618	Grants utilised for operating purposes	252,000	-	252,000
4,031	Other	7,000	-	7,000
	Payments			
(1,645,676)	Employee costs	(1,762,000)	-	(1,762,000)
(802,416)	Materials, contracts & other expenses	(737,300)	-	(737,300)
(57,773)	Finance Payments	(7,874)	-	(47,874)
180,738	<b>Net Cash Provided/(Used) by Operating Activities</b>	<b>50,000</b>	<b>(8,000)</b>	<b>2,000</b>
	<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
	Loans Received	-	-	-
(67,488)	Repayment of Borrowings	(69,090)	-	(69,090)
(110,535)	Repayment of Finance Lease Liabilities	-	-	-
(178,023)	<b>Net Cash Provided/(Used) by Financing Activities</b>	<b>(69,090)</b>	<b>-</b>	<b>(69,090)</b>
	<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
	Receipts			
	Sale of Replaced Assets	-	-	-
	Payments			
(24,677)	Expenditure on renewal / replacements of assets	-	-	-
-	Expenditure on new / upgraded assets	-	-	-
-	Distributions paid to constituent Councils	-	-	-
(24,677)	<b>Net Cash Provided/(Used) by Investing Activities</b>	<b>-</b>	<b>-</b>	<b>-</b>
(21,962)	<b>NET INCREASE (DECREASE) IN CASH HELD</b>	<b>(19,090)</b>	<b>(8,000)</b>	<b>(27,090)</b>
743,272	<b>CASH AND CASH EQUIVALENTS AT BEGINNING OF REPORTING PERIOD</b>	<b>667,784</b>	<b>53,526</b>	<b>721,310</b>
721,310	<b>CASH AND CASH EQUIVALENTS AT END OF REPORTING PERIOD</b>	<b>648,694</b>	<b>45,526</b>	<b>694,220</b>

EASTERN HEALTH AUTHORITY STATEMENT OF FINANCIAL POSITION				
FOR THE YEAR ENDING 30 JUNE 2021				
AUDITED RESULTS 2019/2020		ADOPTED BUDGET 2020/2021	SEPTEMBER REVIEW	REVISED BUDGET 2020/2021
	<b>CURRENT ASSETS</b>			
721,310	Cash and Cash Equivalents	648,694	45,526	694,220
155,650	Trade & Other Receivables	122,329	33,321	155,650
876,960	<b>TOTAL CURRENT ASSETS</b>	<b>771,023</b>	<b>78,847</b>	<b>849,870</b>
	<b>NON-CURRENT ASSETS</b>			
1,491,511	Infrastructure, property, plant and equipment	254,192	1,044,319	1,298,511
1,491,511	<b>TOTAL NON-CURRENT ASSETS</b>	<b>254,192</b>	<b>1,044,319</b>	<b>1,298,511</b>
2,368,471	<b>TOTAL ASSETS</b>	<b>1,025,215</b>	<b>1,123,166</b>	<b>2,148,381</b>
	<b>CURRENT LIABILITIES</b>			
157,719	Trade & Other Payables	197,380	(39,661)	157,719
307,885	Provisions	325,421	(17,536)	307,885
192,012	Borrowings	67,488	55,434	122,922
657,616	<b>TOTAL CURRENT LIABILITIES</b>	<b>590,289</b>	<b>(1,763)</b>	<b>588,526</b>
	<b>NON-CURRENT LIABILITIES</b>			
22,268	Provisions	38,690	(16,422)	22,268
1,213,708	Borrowings	46,677	1,167,031	1,213,708
1,235,976	<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>85,367</b>	<b>1,150,609</b>	<b>1,235,976</b>
1,893,592	<b>TOTAL LIABILITIES</b>	<b>675,656</b>	<b>1,148,846</b>	<b>1,824,502</b>
219,344	<b>NET CURRENT ASSETS/(CURRENT LIABILITIES)</b>	<b>180,734</b>	<b>80,610</b>	<b>261,344</b>
474,879	<b>NET ASSETS</b>	<b>349,559</b>	<b>(25,680)</b>	<b>323,879</b>
	<b>EQUITY</b>			
474,879	Accumulated Surplus/(Deficit)	349,559	105,320	454,879
474,879	<b>TOTAL EQUITY</b>	<b>349,559</b>	<b>105,320</b>	<b>454,879</b>

EASTERN HEALTH AUTHORITY STATEMENT OF CHANGES IN EQUITY				
FOR THE YEAR ENDING 30 JUNE 2021				
AUDITED RESULTS 2019/2020		ADOPTED BUDGET 2020/2021	SEPTEMBER REVIEW	REVISED BUDGET 2020/2021
	<b>ACCUMULATED SURPLUS</b>			
488,280	Balance at beginning of period	349,559	125,320	474,879
(13,401)	Net Surplus/(Deficit)	-	(20,000)	(20,000)
-	Distribution to Constituent Councils	-	-	-
474,879	<b>BALANCE AT END OF PERIOD</b>	<b>349,559</b>	<b>105,320</b>	<b>454,879</b>



## Eastern Health Authority

### Bank Reconciliation as at 30 September 2020

**Bank SA Account No. 141/0532306840**

Balance as per Bank Statement 30 September 2020		\$91,698.96
Plus Outstanding cheques	\$ -	
Add Outstanding deposits	\$ -	
BALANCE PER General Ledger		\$91,698.96

#### GST July to September 2020

GST Collected	\$464.70	
GST Paid	\$3,022.93	
Net GST Claimable (Payable)	(\$2,558.23)	

#### Funds Available September 2020

Account	30-Sep-20	30-Jun-20	Variance
Bank SA Cheque Account	\$ 91,699	\$ 167,921	-\$ 76,222
Local Government Finance Authority	\$ 1,103,081	\$ 552,363	\$ 550,719
Net GST Claimable (Payable)	(\$2,558.23)	(\$3,406)	\$ 847
Long Service Leave Provision	(\$189,467)	(\$215,166)	\$0.00
Annual Leave Provision	(\$140,686)	(\$134,438)	(\$6,248.00)
<b>TOTAL FUNDS AVAILABLE</b>	<b>\$ 862,069</b>	<b>\$ 367,274</b>	<b>\$ 494,795</b>

## 5.2 EASTERN HEALTH AUTHORITY 2020 CHARTER REVIEW

Author: Michael Livori  
Ref: AF20/47

### Summary

Clause 19 of Schedule 2 of the *Local Government Act 1999* requires that a regional subsidiary has a Charter prepared by its Constituent Councils, and that the Charter is reviewed every 4 years.

Clause 12.3(a) of the Charter also requires the review to occur every 4 years. The last review of the Eastern Health Authority Charter was finalised in May 2016. A report was considered by the Board at its June 2020 meeting and the review process subsequently commenced.

This report provides an update in relation to the review process.

### Report

An initial review of the Charter has been undertaken by the EHA administration including seeking advice in relation to what aspects of the Charter need to be amended from a legal and best practice point of view.

A table detailing the proposed changes and rationale is provided as attachment 1. The table requires consideration by Board Members for discussion and direction in relation to a number of clauses.

A copy of the draft amended Charter with the majority of changes marked up is provided as attachment 2.

Once the Board have provided direction in relation to the suggested changes to the Charter it is intended that the process detailed in the June 2020 report will continue.

That is:

- Initial legal / best practice review and summary of suggested amendments be circulated to all Constituent Councils for comment including a request to provide any additional changes they would like considered.
- Any additional changes requested by Constituent Councils be circulated to other Constituent Councils for review and comment.
- Draft revised Charter developed based on legal / best practice review and suggestions from Constituent Councils that have been unanimously agreed.
- If required, a meeting of representatives from each Constituent Council is convened to gain consensus on any elements that have not been unanimously agreed and assist in developing a final draft revised Charter.
- Request a resolution from each Constituent Council agreeing to the proposed revised

Charter.

- A copy of the Charter as amended, be provided to the Minister for State/Local Government Relations and published on a website in accordance with the Local Government Act requirements.

## **RECOMMENDATION**

That:

- 1 The Eastern Health Authority 2020 Charter Review Report is received.
- 2 Correspondence be provided to Constituent Councils requesting feedback in relation to the Charter Review as detailed in the report.

## Eastern Health Authority Charter Review 2020 – Summary of Amendments for Consideration.

Clause	Title	Commentary on amendments for consideration
1.7	Area of Activity	<p>Revised clause allows for approval of an activity outside of the area of the Constituent Councils following unanimous resolution by the Board of Members AND concurrence of the Chief Executive Officers of the Constituent Councils.</p> <p>Currently unanimous approval is required from Constituent Councils for this to occur which can take considerable time.</p> <p>The revised clause would allow response to opportunities that may be of benefit to EHA in a timelier manner.</p>
1.8	Common Seal	<p>Current clause b) and c) are deleted as they are merely a replication of what is in the LG Act.</p>
2.1	Board of Management - Functions	<p>Language changed to reflect the LG Act more closely.</p> <p>Reference to developing the Public Health Plan is no longer necessary.</p> <p>In relation to the Business Plan, the Board (as the governing body of EHA through which EHA makes decisions) will adopt the business plan therefore it is not considered necessary to refer to the Board assisting in its development.</p> <p>Consideration to be given to whether there are other functions of the Board to be listed.</p>
2.2	Membership of Board	<p>Minor amendments for clarification purposes.</p>
2.3 b)	Conduct of Board Members	<p>Consideration as to whether Board Members submit a Register of Interest document to EHA or provide a copy of the Register of Interest they have submitted to their respective councils.</p>
2.4 a) c)	Board policies and codes	<p>It is unnecessary to require consultation with Board Members. The mechanism by which EHA will adopt policies etc is by the Board passing a resolution adopting the policies. The Board Members will therefore provide their input by discussing, debating and ultimately adopting and reviewing the policies that are presented to it by the CEO.</p>

### Eastern Health Authority Charter Review 2020 – Summary of Amendments for Consideration.

Clause	Title	Commentary on amendments for consideration
b)		Changed to reflect that EHA has developed its own code of conduct for Board Members.
2.5 e) f)	Chair of the Board	Changed to reflect circumstances where resignation of chair occurs, and Chair is absent.
3.2 d)	Special Meetings	Consideration as to whether notice of meeting is adequate, suggest 4 hours
3.3	Telephone or video conferencing	<p>Consideration to be given to permitting any board meeting to be convened by electronic means.</p> <p>Consideration as to whether 3.3 b) – e) be removed from the Charter and placed into a meeting procedure document to be adopted by EHA dealing with the procedures for electronic meetings and for board members to be able to participate in meetings by electronic means. There should be detailed procedures for how such meetings are to occur and the responsibilities of board members who attend meetings via electronic means.</p>
3.6 b)	Quorum	This amendment is merely to clarify that a quorum is required for business to be transacted, it is possible that part of a meeting only may be in quorate and in that case any business transacted during the period the meeting had quorum is valid.
3.8 c)	Voting	Amendment requires Board Members attending meetings by electronic means to vote on a question arising from a decision at the meeting.
3.9	Circular Resolutions	This amendment is made as a suggestion to simplify this clause. The procedures for circular resolutions could be set out in a document to be adopted by the Board (they could be included in the meeting procedures guidelines).
3.10	Meetings to be held in public	Consider whether meeting be required to be held in a place open to the public. There has not been a member of the public seek access to a meeting in recent times.

### Eastern Health Authority Charter Review 2020 – Summary of Amendments for Consideration.

Clause	Title	Commentary on amendments for consideration
4.3	Functions of the Chief Executive Officer	The functions listed in the revised clause are analogous to the functions of a CEO of a council listed in section 99 of the Act
4.4	Acting Chief Executive Officer	Clause abbreviated to remove revocation of acting position by Board.
5	Staff of EHA	Revised provisions in clause are identical to provisions in the LG Act that apply to CEOs of councils.
6	Regional Public Health Plan	Clause has been amended to reflect the current state of the Regional Public Health Planning review and reporting process.
7.7	Liability	Consideration of changing clause to mirror LG Act which reads - Liabilities incurred or assumed by a regional subsidiary are guaranteed by the constituent councils.
7.8	Insolvency	As above
8.1 c)  8.2 b)	Business Plan	It is not clear based on the current wording of this clause if that only a majority of the Constituent Councils are required to endorse the business plan or only majority of the Constituent Councils are to determine the date the Business Plan is to be provided to them. This should be clarified. Consideration of changing date to sometime in October to allow additional time to compile required report.
12.3	Alteration and review of charter	Clause changed to reflect revised LG Act requirement for publishing of Charter
N/A	Other	Number of minor grammatical changes have also been made to document



# Charter 2016







1.	EASTERN HEALTH AUTHORITY .....	4
1.1.	Regional subsidiary .....	4
1.2.	Constituent Councils .....	4
1.3.	Preamble .....	4
1.4.	Purpose.....	4
1.5.	Functions.....	4
1.6.	Powers .....	<u>556</u>
1.7.	Area of activity .....	<u>667</u>
1.8.	Common seal.....	7
2.	BOARD OF MANAGEMENT .....	7
2.1.	Functions.....	7
2.2.	Membership of the Board .....	<u>778</u>
2.3.	Conduct of Board Members.....	9
2.4.	Board policies and codes .....	9
2.5.	Chair of the Board .....	<u>101010</u>
2.6.	Powers of the Chair and Deputy Chair .....	10
2.7.	Committees .....	10
3.	MEETINGS OF THE BOARD .....	<u>111111</u>
3.1.	Ordinary meetings .....	<u>111111</u>
3.2.	Special meetings.....	<u>111111</u>
3.3.	Telephone or video conferencing .....	11
3.4.	Notice of meetings.....	<u>121212</u>
3.5.	Minutes .....	<u>131313</u>
3.6.	Quorum.....	<u>131313</u>
3.7.	Meeting procedure .....	13
3.8.	Voting .....	<u>131314</u>
3.9.	Circular resolutions.....	<u>141414</u>
3.10.	Meetings to be held in public except in special circumstances .....	<u>141414</u>
3.11.	Public inspection of documents .....	14
3.12.	Saving provision .....	<u>151515</u>
4.	CHIEF EXECUTIVE OFFICER.....	<u>151515</u>
4.1.	Appointment.....	<u>151515</u>
4.2.	Responsibilities .....	15
4.3.	Functions of the Chief Executive Officer.....	<u>151516</u>
4.4.	Acting Chief Executive Officer .....	<u>161617</u>
5.	STAFF OF EHA .....	<u>171717</u>
6.	REGIONAL PUBLIC HEALTH PLAN .....	<u>171717</u>
6.1.	Obligation to prepare .....	<u>171717</u>
6.2.	Contents .....	<u>171718</u>
6.3.	Consultation .....	<u>181818</u>

6.4.	Adoption of a Regional Public Health Plan .....	<u>191919</u>
6.5.	Implementation of a Regional Public Health Plan.....	<u>191919</u>
6.6.	Review.....	<u>191919</u>
6.7.	Reporting.....	<u>191919</u>
7.	FUNDING AND FINANCIAL MANAGEMENT.....	<u>191919</u>
7.1.	Financial management .....	<u>191919</u>
7.2.	Bank account.....	<u>202020</u>
7.3.	Budget.....	<u>202020</u>
7.4.	Funding contributions.....	<u>202020</u>
7.5.	Financial reporting .....	<u>212121</u>
7.6.	Audit.....	<u>212121</u>
7.7.	Liability .....	<u>212121</u>
7.8.	Insolvency .....	<u>212121</u>
7.9.	Insurance and superannuation requirements.....	<u>212122</u>
8.	BUSINESS PLAN .....	<u>222222</u>
8.1.	Contents of the Business Plan .....	<u>222222</u>
8.2.	Review and assessment against the Business Plan .....	<u>222222</u>
9.	MEMBERSHIP.....	<u>222223</u>
9.1.	New Members.....	<u>222223</u>
9.2.	Withdrawal of a member .....	<u>232323</u>
10.	DISPUTE RESOLUTION .....	<u>232324</u>
11.	WINDING UP .....	<u>262626</u>
12.	MISCELLANEOUS.....	<u>262627</u>
12.1.	Action by the Constituent Councils .....	<u>262627</u>
12.2.	Direction by the Constituent Councils.....	<u>262627</u>
12.3.	Alteration and review of charter .....	<u>262627</u>
12.4.	Access to information .....	<u>272727</u>
12.5.	Circumstances not provided for .....	<u>272727</u>
13.	INTERPRETATION.....	<u>272728</u>
13.1.	Glossary .....	<u>272728</u>
13.2.	Interpreting the charter .....	<u>282829</u>
	Schedule 1 – Funding Contribution Calculation Formula .....	<u>29</u>

## 1. EASTERN HEALTH AUTHORITY

### 1.1. Regional subsidiary

Eastern Health Authority (EHA) is a regional subsidiary established under section 43 of the Act.

### 1.2. Constituent Councils

The Constituent Councils of EHA are:

- a) City of Norwood Payneham & St Peters;
- b) City of Burnside;
- c) Campbelltown City Council;
- d) City of Prospect; and
- e) The Corporation of the Town of Walkerville,

(Constituent Councils).

### 1.3. Preamble

The field of Environmental health continues to increase in complexity and diversity, making it difficult for small to medium size councils to attract and retain staff who are experienced and fully skilled across the legislative demands placed on Local Government.

EHA's size, structure and sole focus on environmental health puts it in an ideal position to provide high quality, specialist services to the community on behalf of its Constituent Councils. This in turn ensures Constituent Councils are meeting their broad environmental health legislative responsibilities.

### 1.4. Purpose

EHA is established by the Constituent Councils for the purpose of providing public and environmental health services primarily to and within the areas of the Constituent Councils.

### 1.5. Functions

For, or in connection with its purpose, EHA may undertake the following functions:

- a) take action to preserve, protect and promote public and environmental health within the area of the Constituent Councils;
- b) cooperate with other authorities involved in the administration of public and environmental health;
- c) promote and monitor public and environmental health whether in or, so far as the Act and the charter allows, outside the area of the Constituent Councils;

- d) assist the Constituent Councils to meet their legislative responsibilities in accordance with the SA Public Health Act, the *Food Act 2001* (SA), the *Supported Residential Facilities Act 1992* (SA), the *Expiation of Offences Act 1996* (SA), the *Housing Improvement Act 1940* (SA) (or any successor legislation to these Acts) and any other legislation regulating similar matters that the Constituent Councils determine is appropriate within the purposes of EHA;
- e) establish objectives and policy priorities for the promotion and protection of public and environmental health within the areas of the Constituent Councils;
- f) provide immunisation programs for the protection of public health within the areas of the Constituent Councils or to ensure that such programs are provided;
- g) promote and monitor standards of hygiene and sanitation;
- h) promote and monitor food safety standards;
- i) identify risks to public and environmental health within the areas of the Constituent Councils;
- j) monitor and regulate communicable and infectious disease control;
- k) licence and monitor standards in Supported Residential Facilities;
- l) ensure that remedial action is taken to reduce or eliminate adverse impacts or risks to public and environmental health;
- m) provide, or support the provision of, educational information about public and environmental health and provide or support activities within the areas of the Constituent Councils to preserve, protect or promote public health;
- n) keep the Constituent Councils abreast of any emerging opportunities, trends and issues in public and environmental health; and
- o) any other functions described in the Charter or assigned by the Constituent Councils to EHA consistent with EHA's purpose.

#### 1.6. Powers

EHA has the powers necessary for the carrying out of its functions, and may:

- a) enter into contracts or arrangements with any government agency or authority, or councils, including the Constituent Councils;
- b) appoint, employ, remunerate, remove or suspend officers, managers, employees and agents;

- c) enter into contracts with any person for the acquisition or provision of goods and services;
- d) receive financial contributions from the Constituent Councils;
- e) publish information;
- f) acquire, hold, deal with and dispose of any real or personal property, subject to the requirements of the Constituent Councils;
- g) open and operate bank accounts;
- h) acquire funds for the purpose of its functions or operations by entering into loan agreements;
- i) invest any of the funds of EHA in any investment with the LGA Finance Authority, provided that in exercising this power of investment EHA must:
  - (a) exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
  - (b) avoid investments that are speculative or hazardous in nature;
- j) raise revenue by applying for grants and other funding from the State of South Australia or the Commonwealth of Australia and their respective agencies or instrumentalities on behalf of the Constituent Councils or on its own behalf.

#### 1.7. Area of activity

a) ~~EHA may only undertake an activity, including in relation to one or more of its functions and powers set out in clauses 1.5 and 1.6 outside the area of the Constituent Councils where that activity has been approved by EHA by a unanimous resolution supported unanimously by all the Board Members of EHA currently in office on the basis EHA considers the activity is decision of the Constituent Councils as being necessary or expedient to the performance by EHA of its functions subject to:~~

~~(a) the relevant and is an activity being included in the EHA business plan;~~

~~(b) there being no material impact on EHA's ability to undertake its functions set out in clause 1.5;~~

~~(c) EHA obtaining the concurrence of the Chief Executive Officers of the Constituent Councils to EHA undertaking the relevant activity.~~

## 1.8. Common seal

- a) EHA shall have a common seal upon which its corporate name shall appear in legible characters.
- ~~b) The common seal shall not be used without the authorisation of a resolution of EHA and every use of the common seal shall be recorded in a register.~~
- ~~c) The affixing of the common seal shall be witnessed by the Chair or Deputy Chair or such other Board member as the Board may appoint for the purpose.~~
- d)b) The common seal shall be kept in the custody of the Chief Executive Officer or such other person as EHA may from time to time decide.

## 2. BOARD OF MANAGEMENT

### 2.1. Functions

The Board is ~~the governing body of EHA and is responsible for the administration of the affairs of EHA, managing all activities of EHA. A decision of the Board is a decision of EHA, and ensuring that EHA acts in accordance with the Charter.~~ In addition to the functions of the Board set out in the LG Act the Board The Board will:

- a) ~~take all reasonable and practicable steps to ensure that EHA acts in accordance with the Charter;~~
- a)b) formulate plans and strategies aimed at improving the activities of EHA;
- b)c) provide input and policy direction to EHA;
- c)d) monitor, oversee and evaluate the performance of the Chief Executive Officer;
- d)e) ensure that ethical behaviour and integrity is maintained in all activities undertaken by EHA;
- e)f) subject to clause 3.10, ensure that the activities of EHA are undertaken in an open and transparent manner; ~~and~~
- f)g) ~~assist with the development of the Public Health Plan and Business Plan; and~~
- g)h) exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons.

### 2.2. Membership of the Board

- a) Each Constituent Council must appoint:
  - (a) one elected member; and

- (b) one other person who may be an officer, employee or elected member of that Constituent Council or an independent person, to be Board members and may at any time revoke these appointments and appoint other persons on behalf of that Constituent Council.
- b) A Board Member shall be appointed for the term of office specified in the instrument of appointment, and at the expiration of the term of office will be eligible for re-appointment by the Constituent Council that appointed that Board Member.
- c) Each Constituent Council must give notice in writing to EHA of the elected members it has appointed as Board Members and of any revocation of any of those appointments.
- d) Any person authorised by a Constituent Council may attend (but not participate in) a Board meeting and may have access to papers provided to Board Members for the purpose of the meeting.
- e) The provisions regarding the office of a board member becoming vacant as prescribed in the Act apply to all Board Members.
- f) Where the office of a board member becomes vacant, the relevant Constituent Council will appoint another person as a Board member for the balance of the original term or such other term as the Constituent Council determines.
- g) The Board may by a two thirds majority vote of the Board Members present (excluding the Board Member who is the subject of a recommendation under this clause ~~g)g)g)~~) make a recommendation to the relevant Constituent Council requesting that the Constituent Council terminate the appointment of a Board Member in the event of:
- (a) any behaviour of the Board Member which in the opinion of the Board amounts to impropriety;
  - (b) serious neglect of duty in attending to their responsibilities as a Board Member;
  - (c) breach of fiduciary duty to EHA, a Constituent Council or the Constituent Councils;
  - (d) breach of the duty of confidentiality to EHA, a Constituent Council or the Constituent Councils;
  - (e) breach of the conflict of interest provisions of the Act; or

- (f) any other behaviour that may, in the opinion of the Board, discredit EHA a Constituent Council or the Constituent Councils.
- h) The members of the Board shall not be entitled to receive any remuneration in respect of their appointment as a Board Member including their attendance at meetings of the Board or on any other business of the BoardEHA.

### 2.3. Conduct of Board Members

- a) Subject to clauses 20(6) and 20(7), Schedule 2 to the Act, the provisions regarding conflict of interest prescribed in the Act apply to Board Members.
- b) Board Members are not required to comply with Division 2, Part 4, Chapter 5 (Register of Interests) of the Act.
- c) Board Members must at all times act in accordance with their duties under the Act.

### 2.4. Board policies and codes

- a) EHA must, in consultation with the Board Members ensure that appropriate policies, practices and procedures are implemented and maintained in order to:
  - (a) ensure compliance with any statutory requirements; and
  - (b) achieve and maintain standards of good public administration.
- b) EHA will adopt a A code of conduct currently prescribed under section 63 of the Act will apply tofor Board Members as if the Board Members were elected members, except insofar as the prescribed code of conduct is inconsistent with an express provision of the charter or schedule 2 of the Act. In the event of such an inconsistency, the charter or schedule 2 of the Act (as relevant) will prevail to the extent of the inconsistency.
- c) To the extent it is able, tThe Board must, as far as it is reasonable and practicable, ensure that its EHA's policies are complied with in the conduct of the affairs of EHA and are periodically reviewed and, if appropriate, amendedreviewed at regular intervals to be determined by the Board on the recommendation of the audit committee.
- d) The audit committee will develop a schedule for the periodic review of EHA policies by 30 June each year and provide this to the Board for approval.



## 2.5. Chair of the Board

- a) A Chair and Deputy Chair shall be elected at the first meeting of the Board after a Periodic Election.
- b) The Chair and Deputy Chair shall hold office for a period of one year from the date of the election by the Board.
- c) Where there is more than one nomination for the position of Chair or Deputy Chair, the election shall be decided by ballot.
- d) Both the Chair and Deputy Chair shall be eligible for re-election to their respective offices at the end of the relevant one year term.
- e) If the Chair should cease to be a Board Member, [or resign their position as chair](#), the Deputy Chair may act as the Chair until the election of a new Chair.
- e)f) In the event the Chair is absent the Deputy Chair shall act as the Chair.

## 2.6. Powers of the Chair and Deputy Chair

- a) The Chair shall preside at all meetings of the Board and, in the event of the Chair being absent from a meeting, the Deputy Chair shall preside. In the event of the Chair and Deputy Chair being absent from a meeting, the Board Members present shall appoint a member from among them, who shall preside for that meeting or until the Chair or Deputy Chair is present.
- b) The Chair and the Deputy Chair individually or collectively shall have such powers as may be decided by [the BoardEHA](#).

## 2.7. Committees

- a) [The BoardEHA](#) may establish a committee for the purpose of:
  - (a) enquiring into and reporting to the Board on any matter within EHA's functions and powers and as detailed in the terms of reference given by the Board to the committee; or
  - (b) exercising, performing or discharging delegated powers, functions or duties.
- b) A member of a committee established under this clause holds office at the pleasure of [the BoardEHA](#).
- c) The Chair of the Board is an *ex-officio* member of any committee [or advisory committee](#) established by [the BoardEHA](#).

### 3. MEETINGS OF THE BOARD

#### 3.1. Ordinary meetings

- a) Ordinary meetings of the Board will take place at such times and places as may be fixed by the Board or where there are no meetings fixed by the Board, by the Chief Executive Officer in consultation with the Chair from time to time, so that there are no less than five ordinary meetings per financial year.
- b) Notice of ordinary meetings of the Board must be given by the Chief Executive Officer to each Board Member and the chief executive officer of each Constituent Council at least three clear days prior to the holding of the meeting.

#### 3.2. Special meetings

- a) Any two Board Members may by delivering a written request to the Chief Executive Officer require a special meeting of the Board to be held.
- b) The request must be accompanied by the proposed agenda for the meeting and any written reports intended to be considered at the meeting (if the proposed agenda is not provided the request is of no effect).
- c) On receipt of the request, the Chief Executive Officer must send a notice of the special meeting to all Board Members and Chief Executive Officers of the Constituent Councils at least four hours prior to the commencement of the special meeting.
- d) The Chair may convene special meetings of the Board at the Chair's discretion without complying with the notice requirements prescribed in clause 3.4 provided always that there is a minimum one hour notice given to Board members.

#### 3.3. Telephone or video conferencing

- a) **Special meetings of the Board** convened under clause 3.2 may occur by ~~telephone or video conference~~electronic means in accordance with procedures determine by EHA or the Chief Executive Officer and provided that at least a quorum is present at all times.
- b) Where one or more Board Members attends a Board meeting by ~~telephone or video conferencing~~electronic means, the meeting will be taken to be open to the public, provided that members of the public can hear the discussion between Board members.
- c) Each of the Board Members taking part in a meeting ~~via telephone or video conferencing~~by electronic means must, at all times during the

meeting, be able to hear and be heard by the other Board Members present.

- d) At the commencement of the meeting by ~~telephone~~electronic means, each Board Member must announce their presence to all other Board Members taking part in the meeting.
- e) Board Members attending a meeting by electronic means must ~~not leave a meeting by disconnecting~~ the electronic means or telephone, audio-visual or other communication equipment, without notifying the Chair of the meeting in advance.

#### 3.4. Notice of meetings

- a) Except where clause 3.2 applies, notice of Board meetings must be given in accordance with this clause.
- b) Notice of any meeting of the Board must:
  - (a) be in writing;
  - (b) set out the date, time and place of the meeting;
  - (c) be signed by the Chief Executive Officer;
  - (d) contain, or be accompanied by, the agenda for the meeting; and
  - (e) be accompanied by a copy of any document or report that is to be considered at the meeting (as far as this is practicable).
- c) Notice under clause ~~b)b)b)~~ may be given to a Board Member:
  - (a) personally;
  - (b) by delivering the notice (whether by post or otherwise) to the usual place of residence of the Board Member or to another place authorised in writing by the Board Member;
  - (c) electronically via email to an email address approved by the Board Member;
  - (d) by leaving the notice at the principal office of the Constituent Council which appointed the Board Member; or
  - (e) by a means authorised in writing by the Board Member being an available means of giving notice.
- d) A notice that is not given in accordance with clause ~~c)c)c)~~ will be taken to have been validly given if the Chief Executive Officer considers it impracticable to give the notice in accordance with that clause and takes action that the Chief Executive Officer considers

reasonably practicable in the circumstances to bring the notice to the Board Member's attention.

- e) The Chief Executive Officer may indicate on a document or report provided to Board Members that any information or matter contained in or arising from the document or report is confidential until such time as the Board determines whether the document or report will be considered in confidence under clause ~~3.10.b)3.10.b)3.10.b)~~.

### 3.5. Minutes

- a) The Chief Executive Officer must cause minutes to be kept of the proceedings at every meeting of the Board.
- b) Where the Chief Executive Officer is excluded from attendance at a meeting of the Board pursuant to clause ~~3.10.b)3.10.b)3.10.b)~~, the person presiding at the meeting shall cause the minutes to be kept.

### 3.6. Quorum

- a) A quorum of Board Members is constituted by dividing the total number of Board Members for the time being in office by two, ignoring any fraction resulting from the division and adding one.
- b) No business will be transacted at a meeting unless a quorum is present ~~and maintained~~ during the meeting.

### 3.7. Meeting procedure

- a) ~~The Board~~EHA may determine its own procedures for the conduct of its meetings provided they are not inconsistent with the Act or the charter.
- b) Meeting procedures determined by ~~the Board~~EHA must be documented and be made available to the public.
- c) Where the Board has not determined a procedure to address a particular circumstance, the provisions of Part 2 of the *Local Government (Procedures at Meetings) Regulations 2000* (SA) shall apply.

### 3.8. Voting

- a) Board Members including the Chair, shall have a deliberative vote. The Chair shall not in the event of a tied vote, have a second or casting vote.
- b) All matters will be decided by simple majority of votes of the Board Members present. In the event of a tied vote the matter will lapse.

- c) Each Board Member present at a meeting, including Board Members attending a meeting by electronic means must vote on a question arising for decision at the meeting.

### 3.9. Circular resolutions

- ~~a) —~~ A valid decision of the Board may be obtained by a proposed resolution in writing given to all Board Members in accordance with procedures determined by the Board, and a resolution made in accordance with such procedures is as valid and effectual as if it had been passed at a meeting of the Board where a simple majority of Board Members vote in favour of the resolution by signing and returning the resolution to the Chief Executive Officer or otherwise giving written notice of their consent and setting out the terms of the resolution to the Chief Executive Officer.

A resolution consented to under clause a) is as valid and effectual as if it had been passed at a meeting of the Board.

### 3.10. Meetings to be held in public except in special circumstances

- a) Subject to this clause, meetings of the BoardEHA must be conducted in a place open to the public.
- b) The BoardEHA may order that the public be excluded from attendance at any meeting in accordance with the procedure under sections 90(2) and 90(3) of the Act.
- c) An order made under clause ~~b)b)b)~~ must be recorded in the minutes of the meeting including describing the grounds on which the order was made.

### 3.11. Public inspection of documents

- a) Subject to clause ~~c)c)c)~~, a person is entitled to inspect, without payment of a fee:
- (a) minutes of a Board Meeting;
  - (b) reports received by the Board Meeting; and
  - (c) recommendations presented to the Board in writing and adopted by resolution of the Board.
- b) Subject to clause ~~c)c)c)~~, a person is entitled, on payment to the Board of a fee fixed by the Board, to obtain a copy of any documents available for inspection under clause ~~a)a)a)~~.
- c) Clauses ~~a)a)a)~~ and ~~b)b)b)~~ do not apply in relation to a document or part of a document if:

- (a) the document or part of the document relates to a matter of a kind considered by the Board in confidence under clause ~~3.10.b)3.10.b)3.10.b)~~; and
- (b) the Board orders that the document or part of the document be kept confidential (provided that in so ordering the Board must specify the duration of the order or the circumstances in which it will cease to apply or a period after which it must be reviewed).

### 3.12. Saving provision

- a) No act or proceeding of EHA is invalid by reason of:
  - (a) a vacancy or vacancies in the membership of the Board; or
  - (b) a defect in the appointment of a Board Member.

## 4. CHIEF EXECUTIVE OFFICER

### 4.1. Appointment

- a) ~~The Board~~EHA shall appoint a Chief Executive Officer to manage the business of EHA on a fixed term performance based employment contract, which does not exceed five years in duration.
- b) At the expiry of a Chief Executive Officer's contract, the Board may reappoint the same person as Chief Executive Officer on a new contract of no greater than five years duration.

### 4.2. Responsibilities

- a) The Chief Executive Officer is responsible to ~~the Board~~EHA for the execution of decisions taken by ~~the Board~~EHA and for the efficient and effective management of the affairs of EHA.
- b) The Chief Executive Officer shall cause records to be kept of all activities and financial affairs of EHA in accordance with the charter, in addition to other duties provided for by the charter and those specified in the terms and conditions of appointment.

### 4.3. Functions of the Chief Executive Officer

The functions of the Chief Executive Officer ~~shall be specified in the terms and conditions of appointment and will include to: terms to the effect that the Chief Executive Officer's functions may:~~

- a) ensure that the policies, procedures, codes of conduct and any lawful decisions of EHA are implemented and promulgated in a timely and efficient manner;

- b) undertake responsibility for the day to day operations and affairs of EHA;
- c) provide advice, assistance and reports to EHA through the Board in the exercise and performance of its powers and functions under the charter and the Act;
- d) initiate and co-ordinate proposals for consideration by EHA for developing objectives, policies and programs for the Constituent Council areas;
- e) provide information to EHA to assist EHA to assess performance against EHA plans;
- f) ensure that timely and accurate information about EHA policies and programs is regularly provided to the communities of the Constituent Councils;
- g) ensure that appropriate and prompt responses are given to specific requests for information made to EHA and, where appropriate, the Constituent Councils;
- h) ensure that the assets and resources of EHA are properly managed and maintained;
- i) maintain records that EHA and the Constituent Councils are required to maintain under the charter, the Act or another Act in respect of EHA;
- j) ensure sound principles of human resource management, health and safety to the employment of staff by EHA, including the principles listed in section 107(2) of the Act;
- k) ensure compliance with the obligations under *Work Health and Safety Act 2012* (SA) of both EHA and the Chief Executive Officer (as an 'officer' of EHA within the meaning of the WHS Act); and
- l) exercise, perform or discharge other powers, functions or duties conferred on the Chief Executive Officer by the charter, and to perform other functions lawfully directed by ~~the Board~~EHA;
- l)m) such other functions as may be specified in the terms and conditions of appointment of the Chief Executive Officer.

#### 4.4. Acting Chief Executive Officer

- a) Where an absence of the Chief Executive Officer is foreseen, the Chief Executive Officer may appoint a suitable person to act as Chief Executive Officer, provided that the Board~~EHA~~ may determine to revoke the Acting Chief Executive Officer's appointment and appoint an alternative person as Acting Chief Executive Officer.

- b) If the Chief Executive Officer does not make or is incapable of making an appointment under clause ~~a)a)a)~~, a suitable person will be appointed by ~~the Board~~EHA.

## 5. STAFF OF EHA

- ~~a) \_\_\_\_\_~~ EHA may employ any staff required for the fulfilment of its functions.
- ~~b) \_\_\_\_\_~~ ~~The~~The Chief Executive Officer is responsible for appointing, managing, suspending and dismissing the other employees of EHA (on behalf of EHA).
- ~~conditions on which staff are employed will be determined by the Chief Executive Officer.~~
- ~~c) \_\_\_\_\_~~ The Chief Executive Officer must ensure that an appointment under ~~this clause~~ is consistent with strategic policies and budgets approved by EHA.
- ~~d) \_\_\_\_\_~~ The Chief Executive Officer must, in acting under ~~this clause~~ comply with any relevant Act, award or industrial agreement.
- ~~e) \_\_\_\_\_~~ Suspension of an employee by the Chief Executive Officer does not affect a right to remuneration in respect of the period of suspension.

## 6. REGIONAL PUBLIC HEALTH PLAN

### 6.1. ~~Obligation to prepare~~

- ~~a) \_\_\_\_\_~~ EHA must prepare for the Constituent Councils a draft regional public health plan for the purposes of the South Australian Public Health Act.
- ~~b) \_\_\_\_\_~~ The draft Regional Public Health Plan must be:
- ~~(a) \_\_\_\_\_~~ in the form determined or approved by the Minister; and
- ~~(b) \_\_\_\_\_~~ consistent with the State Public Health Plan.
- ~~c) \_\_\_\_\_~~ In drafting the Regional Public Health Plan, EHA will take into account:
- ~~(a) \_\_\_\_\_~~ any guidelines prepared or adopted by the Minister to assist councils prepare regional public health plans; and
- ~~(b) \_\_\_\_\_~~ in so far as is reasonably practicable give due consideration to the regional public health plans of other councils where relevant to issues or activities under the Regional Public Health Plan.

### 6.2. ~~Contents~~

~~The Regional Public Health Plan must:~~



- a) ~~comprehensively assess the state of public health in the areas of the Constituent Councils;~~
- b) ~~identify existing and potential public health risks and provide for strategies for addressing and eliminating or reducing those risks;~~
- c) ~~identify opportunities and outline strategies for promoting public health in the areas of the Constituent Councils;~~
- d) ~~address any public health issues specified by the Minister; and~~
- e) ~~include information as to:~~
  - ~~(a) the state and condition of public health within the area of the Constituent Councils and related trends;~~
  - ~~(b) environmental, social, economic and practical considerations relating to public health within the area of the Constituent Councils; and~~
  - ~~(c) other prescribed matters; and~~
- f) ~~include such other information or material contemplated by the SA Public Health Act or regulations made under that Act.~~

### 6.3. ~~Consultation~~

- a) ~~EHA will submit the draft Regional Public Health Plan to the Constituent Councils for approval for the plan to be provided, on behalf of the Constituent Councils, to:~~
  - ~~(a) the Minister;~~
  - ~~(b) any incorporated hospital established under the *Health Care Act 2008* (SA) that operates a facility within the area of the Constituent Councils;~~
  - ~~(c) any relevant Public Health Authority Partner; and~~
  - ~~(d) any other person prescribed by regulation made under the SA Public Health Act.~~
- b) ~~Once approved by the Constituent Councils, EHA will, on behalf of the Constituent Councils, submit a copy of the draft Regional Public Health Plan to the entities listed in clause a) and consult with the Chief Public Health Officer and the public on the draft Public Health Authority Partner.~~
- c) ~~EHA will provide an amended copy of the Regional Public Health Plan to the Constituent Councils which takes into account comments received through consultation under clause b).~~

#### ~~6.4. Adoption of a Regional Public Health Plan~~

~~Each Constituent Council will determine whether or not to adopt the draft Regional Public Health Plan submitted to it by EHA under clause 6.3.c).~~

#### ~~6.5.6.1. Implementation of a Regional Public Health Plan~~

~~EHA is responsible for undertaking any strategy and for attaining any priority or goal which the Regional Public Health Plan specifies as EHA's responsibility.~~

#### ~~6.6.6.2. Review~~

~~EHA will, in conjunction with the Constituent Councils, review the current Regional Public Health Plan every five years or at shorter time intervals as directed by the Constituent Councils.~~

#### ~~6.7.6.3. Reporting~~

a) EHA will on a biennial basis, on behalf of the Constituent Councils, prepare coordinate the preparation of a draft report that contains a comprehensive assessment of the extent to which, during the reporting period, EHA and the Constituent Councils have succeeded in implementing the Regional Public Health Plan.

~~b) The reporting period for the purposes of clause a) is the two years ending on 30 June preceding the drafting of the report.~~

~~c)b) EHA will comply with guidelines issued by the Chief Public Health Officer in respect of the preparation of reports on regional public health plans.~~

~~d)c) EHA will submit the draft report to the Constituent Councils for approval for the draft report to be provided to the Chief Public Health Officer by 30 June 2014 on behalf of the constituent councils as required.~~

## 7. FUNDING AND FINANCIAL MANAGEMENT

### 7.1. Financial management

a) EHA shall keep proper books of account. Books of account must be available for inspection by any Board Member or authorised representative of any Constituent Council at any reasonable time on request.

b) EHA must meet the obligations set out in the *Local Government (Financial Management) Regulations 2011* (SA).

c) The Chief Executive Officer must act prudently in the handling of all financial transactions for EHA and must provide financial reports to the Board at its meetings and if requested, the Constituent Councils.

## 7.2. **Bank account**

- a) EHA must establish and maintain a bank account with such banking facilities and at a bank to be determined by the Board.
- b) All cheques must be signed by two persons authorised by resolution of the Board.
- c) Any payments made by electronic funds transfer must be made in accordance with procedures approved by the external auditor.

## 7.3. **Budget**

- a) EHA must prepare a proposed budget for each financial year in accordance with clause 25, Schedule 2 to the Act.
- b) The proposed budget must be referred to the Board at its April meeting and to the Chief Executive Officers of the Constituent Councils by 30 April each year.
- c) A Constituent Council may comment in writing to EHA on the proposed budget by 31 May each year.
- d) EHA must, after 31 May but before the end of June in each financial year, finalise and adopt an annual budget for the ensuing financial year in accordance with clause 25, Schedule 2 to the Act.

## 7.4. **Funding contributions**

- a) Constituent Councils shall be liable to contribute monies to EHA each financial year for its proper operation.
- b) The contribution to be paid by a Constituent Council for any financial year shall be determined by calculating the Constituent Council's proportion of EHA's overall activities in accordance with the Funding Contribution Calculation Formula (see Schedule 1).
- c) Constituent Council contributions shall be paid in two equal instalments due respectively on 1 July and 1 January each year.
- d) The method of determining contributions can be changed with the written approval of not less than two thirds of the Constituent Councils. Where the method for calculating contributions is changed, the revised methodology will apply from the date determined by not less than two thirds of the Constituent Councils.
- e) If a council becomes a new Constituent Council after the first day of July in any financial year, the contribution payable by that council for that year will be calculated on the basis of the number of whole months (or part thereof) remaining in that year.

### 7.5. **Financial reporting**

- a) The Board shall present a balance sheet and the audited financial statements for the immediately previous financial year to the Constituent Councils by 31 August each year.
- b) The financial year for EHA is 1 July of a year to 30 June in the subsequent year.

### 7.6. **Audit**

- a) The Board shall appoint an external auditor in accordance with the *Local Government (Financial Management) Regulations 2011 (SA)*.
- b) The audit of financial statements of EHA, together with the accompanying report from the external auditor, shall be submitted to the Chief Executive Officer and the Board.
- c) The books of account and financial statements shall be audited at least once per year.
- d) EHA will maintain an audit committee as required by, and to fulfil the functions set out in, clause 30, Schedule 2 to the Act.

### 7.7. **Liability**

The liabilities incurred and assumed by EHA are guaranteed by all Constituent Councils in the proportions specified in the Funding Contribution Calculation Formula.

### 7.8. **Insolvency**

In the event of EHA becoming insolvent, the Constituent Councils will be responsible for all liabilities of EHA in proportion to the percentage contribution calculated for each Constituent Council for the financial year prior to the year of the insolvency.

### 7.9. **Insurance and superannuation requirements**

- a) EHA shall register with the LGA Mutual Liability Scheme and comply with the rules of that scheme.
- b) EHA shall register with the LGA Asset Mutual Fund or otherwise advise the Local Government Risk Services of its insurance requirements relating to local government special risks in respect of buildings, structures, vehicles and equipment under the management, care and control of EHA.
- c) If EHA employs any person it shall register with Statewide Super and the LGA Workers Compensation Scheme and comply with the rules of those schemes.

## 8. BUSINESS PLAN

### 8.1. Contents of the Business Plan

- a) EHA must each year develop in accordance with this clause a business plan which supports and informs its annual budget.
- b) In addition to the requirements for the Business Plan set out in clause 24(6) of Schedule 2 to the Act, the Business Plan will include:
  - (a) a description of how EHA's functions relate to the delivery of the Regional Public Health Plan and the Business Plan;
  - (b) financial estimates of revenue and expenditure necessary for the delivery of the Regional Public Health Plan;
  - (c) performance targets which EHA is to pursue in respect of the Regional Public Health Plan.
- c) A draft of the Business Plan will be provided to the Constituent Councils ~~on a date to be determined~~ for the endorsement of the majority of those councils.
- d) The Board must provide a copy of the adopted annual Business Plan and budget to the Chief Executive Officers of each Constituent Council within five business days of its adoption.

### 8.2. Review and assessment against the Business Plan

- a) The Board must:
  - (a) compare the achievement of the Business Plan against performance targets for EHA at least once every financial year;
  - (b) in consultation with the Constituent Councils review the contents of the Business Plan on an annual basis; and
  - (c) consult with the Constituent Councils prior to amending the Business Plan.
- b) EHA must submit to the Constituent Councils, by **30 September each** year in respect of the immediately preceding financial year, an annual report on the work and operations of EHA detailing achievement of the aims and objectives of its Business Plan and incorporating any other information or report as required by the Constituent Councils.

## 9. MEMBERSHIP

### 9.1. New Members

The charter may be amended by the unanimous agreement of the Constituent Councils and the approval of the Minister to provide for the admission of a new Constituent Council or Councils, with or without conditions of membership.

## 9.2. **Withdrawal of a member**

- a) Subject to any legislative requirements, including but not limited to ministerial approval, a Constituent Council may resign from EHA at any time by giving a minimum 12 months notice to take effect from 30 June in the financial year after which the notice period has expired, unless otherwise agreed by unanimous resolution of the other Constituent Councils.
- b) Valid notice for the purposes of clause ~~a)a)a)~~ is notice in writing given to the Chief Executive Officer and each of the Constituent Councils.
- c) The withdrawal of any Constituent Council does not extinguish the liability of that Constituent Council to contribute to any loss or liability incurred by EHA at any time before or after such withdrawal in respect of any act or omission by EHA prior to such withdrawal.
- d) Payment of monies outstanding under the charter, by or to the withdrawing Constituent Council must be fully paid by 30 June of the financial year following 30 June of the year in which the withdrawal occurs unless there is a unanimous agreement as to alternative payment arrangements by the Constituent Councils.

## 10. **DISPUTE RESOLUTION**

- a) The procedure in this clause must be applied to any dispute that arises between EHA and a Constituent Council concerning the affairs of EHA, or between the Constituent Councils concerning the affairs of EHA, including a dispute as to the meaning or effect of the charter and whether the dispute concerns a claim in common law, equity or under statute.
- b) EHA and a Constituent Council must continue to observe the charter and perform its respective functions despite a dispute.
- c) This clause does not prejudice the right of a party:
  - (a) to require the continuing observance and performance of the charter by all parties: or
  - (b) to institute proceedings to enforce payment due under the charter or to seek injunctive relief to prevent immediate and irreparable harm.
- d) Subject to clause ~~c)c)c)~~, pending completion of the procedure set out in clauses ~~e)e)e)~~ to ~~i)i)i)~~, a dispute must not be the subject of legal proceedings between any of the parties in dispute. If legal

proceedings are initiated or continued in breach of this clause, a party to the dispute is entitled to apply for and be granted an order of the court adjourning those proceedings pending completion of the procedure set out in this clause 10.

e) **Step 1: Notice of dispute:** A party to the dispute must promptly notify each other party to the dispute of:

- (a) the nature of the dispute, giving reasonable details;
- (b) what action (if any) the party giving notice seeks to resolve the dispute.

A failure to give notice under this clause ~~e)e)e)~~ does not entitle any other party to damages.

f) **Step 2: Request for a meeting of the parties:** A party providing notice of a dispute under clause ~~e)e)e)~~ may at the same or a later time notify each other party to the dispute that the notifying party requires a meeting within 14 business days.

g) **Step 3: Meeting of senior managers:** Where a meeting is requested under clause ~~f)f)f)~~, a senior manager of each party must attend a meeting with the Board in good faith to attempt to resolve the dispute.

h) **Step 4: Meeting of chief executive officers:** Where a meeting of senior managers held under clause ~~g)g)g)~~ fails to resolve the dispute, the chief executive officers of EHA and each of the Constituent Councils must attend a meeting in good faith to attempt to resolve the dispute.

i) **Step 5: Mediation:** If the meeting held under clause ~~h)h)h)~~ fails to resolve the dispute, then the dispute may be referred to mediation by any party to the dispute.

j) Where a dispute is referred to mediation under clause ~~i)i)i)~~:

- (a) the mediator must be a person agreed by the parties in dispute or, if they cannot agree within 14 days, a mediator nominated by the President of the South Australian Bar Association (or equivalent office of any successor organisation);
- (b) the role of the mediator is to assist in negotiating a resolution of a dispute;
- (c) a mediator may not make a decision binding on a party unless the parties agree to be so bound either at the time the mediator is appointed or subsequently;

- (d) the mediation will occur at EHA's principal office or any other convenient location agreed by both parties;
- (e) a party is not required to spend more than the equivalent of one business day in mediation of a dispute;
- (f) each party to a dispute will cooperate in arranging and expediting the mediation, including by providing information in the possession or control of the party reasonably sought by the mediator in relation to the dispute;
- (g) each party will send a senior manager authorised to resolve the dispute to the mediation;
- (h) the mediator may exclude lawyers acting for the parties in dispute;
- (i) the mediator may retain persons to provide expert assistance to the mediator;
- (j) a party in dispute may withdraw from mediation if in the reasonable opinion of that party, the mediator is not acting in confidence or with good faith, or is acting for a purpose other than resolving the dispute;
- (k) unless otherwise agreed in writing:
  - (i) everything that occurs before the mediator is in confidence and in closed session;
  - (ii) discussions (including admissions and concessions) are without prejudice and may not be called into evidence in any subsequent legal proceedings by a party;
  - (iii) documents brought into existence specifically for the purpose of the mediation may not be admitted in evidence in any subsequent legal proceedings by a party; and
  - (iv) the parties in dispute must report back to the mediator within 14 days on actions taken based on the outcomes of the mediation; and
- (l) each party to the dispute must bear its own costs in respect of the mediation, plus an equal share of the costs and expenses of the mediator.



## 11. WINDING UP

- a) EHA may be wound up by the Minister acting upon a unanimous resolution of the Constituent Councils or by the Minister in accordance with clause 33(1)(b), Schedule 2 of the Act.
- b) In the event of EHA being wound up, any surplus assets after payment of all expenses shall be returned to the Constituent Councils in the proportions specified in the Funding Contribution Calculation Formula prior to the passing of the resolution to wind up.
- c) If there are insufficient funds to pay all expenses due by EHA on winding up, a levy shall be imposed on all Constituent Councils in the proportion determined under the Funding Contribution Calculation Formula prior to the passing of the resolution to wind up.

## 12. MISCELLANEOUS

### 12.1. Action by the Constituent Councils

The obligations of EHA under the charter do not derogate from the power of the Constituent Councils to jointly act in any manner prudent to the sound management and operation of EHA, provided that the Constituent Councils have first agreed by resolution of each Constituent Council as to the action to be taken.

### 12.2. Direction by the Constituent Councils

Any direction given to EHA by the Constituent Councils must be jointly given by the Constituent Councils to the Board of EHA by a notice or notices in writing.

### 12.3. Alteration and review of charter

- a) The charter will be reviewed by the Constituent Councils acting jointly at least once in every four years.
- b) The charter can only be amended by unanimous resolution of the Constituent Councils.
- c) Notice of a proposed alteration to the charter must be given by the Chief Executive Officer to all Constituent Councils at least four weeks prior to the Council meeting at which the alteration is proposed.
- d) The Chief Executive Officer must ensure that a copy of the charter, as amended, is published on a website (or websites) determined by the chief executive officers of the Constituent Councils, a notice of the fact of the amendment and a website address at which the charter is available for inspection is published in the Gazette and a copy of the charter, as amended, is provided to the Minister. the amended charter is published in the *South Australian Government Gazette*, a copy of the

amended charter is provided to the Minister and a copy is tabled for noting at the next Board meeting.

#### 12.4. Access to information

A Constituent Council and a Board Member each has a right to inspect and take copies of the books and records of EHA for any proper purpose.

#### 12.5. Circumstances not provided for

- a) If any circumstances arise about which the charter is silent or which are, incapable of taking effect or being implemented the Board or the Chief Executive Officer may decide the action to be taken to ensure achievement of the objects of EHA and its effective administration.
- b) Where the Chief Executive Officer acts in accordance with clause ~~a)a)a)~~ he or she shall report that decision at the next Board meeting.

### 13. INTERPRETATION

#### 13.1. Glossary

Term	Definition
Act	<i>Local Government Act 1999 (SA)</i>
Board	board of management of EHA
Board Member	a member of EHA board appointed for the purposes of clause 2.2 of the charter.
Business Plan	a business plan compiled in accordance with part 8 of the charter
Chief Executive Officer	The chief executive officer of EHA
Chief Public Health Officer	the officer of that name appointed under the SA Public Health Act
Constituent Council	a council listed in clause 1.2 of the charter or admitted under clause 9.1.
EHA	Eastern Health Authority
Funding Contribution Calculation Formula	the formula set out in Schedule 1 to the charter.
LGA	Local Government Association of SA
LGA Asset Mutual Fund	means the fund of that name provided by Local Government Risk Services

<b>LGA Mutual Liability Scheme</b>	means the scheme of that name conducted by the LGA.
<b>LGA Workers Compensation Scheme</b>	a business unit of the Local Government Association of South Australia.
<b>Minister</b>	South Australian Minister for Health and Aging
<b>Periodic Election</b>	has the meaning given in the <i>Local Government (Elections) Act 1999 (SA)</i> .
<b>Public Health Authority Partner</b>	is an entity prescribed or declared to be a public health authority partner pursuant to the SA Public Health Act
<b>Regional Public Health Plan</b>	the plan prepared under part 6 of the charter for the areas of the Constituent Councils.
<b>SA Public Health Act</b>	<i>South Australian Public Health Act 2011 (SA)</i>
<b>State Public Health Plan</b>	means the plan of that name under the SA Public Health Act
<b>Statewide Super</b>	Statewide Superannuation Pty Ltd ABN 62 008 099 223
<b>Supported Residential Facility</b>	has the meaning given in the <i>Supported Residential Facilities Act 1992 (SA)</i> .

### 13.2. Interpreting the charter

- a) The charter will come into effect on the date it is published in the *South Australian Government Gazette*.
- b) The charter supersedes previous charters of the Eastern Health Authority.
- c) The charter must be read in conjunction with Schedule 2 to the Act.
- d) EHA shall conduct its affairs in accordance with Schedule 2 to the Act except as modified by the charter as permitted by Schedule 2 to the Act.
- e) Despite any other provision in the charter:
  - (a) if the Act prohibits a thing being done, the thing may not be done;

- (b) if the Act requires a thing to be done, that thing must be done;  
and
- (c) if a provision of the charter is or becomes inconsistent with the Act, that provision must be read down or failing that severed from the charter to the extent of the inconsistency.

### Schedule 1 – Funding Contribution Calculation Formula

The funding contribution required from each Constituent Council is based on an estimated proportion of EHA's overall activities occurring within its respective area.

The estimated proportion is determined using the Funding Contribution Calculation Formula which is detailed on the following page.

In the formula, activities conducted by EHA on behalf of Constituent Councils have been weighted according to their estimated proportion of overall activities (see table below).

It should be noted that the weighted proportion allocated to administration is divided evenly between the Constituent Councils.

A calculation of each Constituent Councils proportion of resources used for a range of different activities is made. This occurs annually during the budget development process and is based on the best available data from the preceding year.

The formula determines the overall proportion of estimated use for each council by applying the weighting to each activity.

<b>Activity</b>	<b>Weighted % of Activities</b>
Administration	12.5%
Food Safety Activity	35.0%
Environmental Health Complaints	7.0%
Supported Residential Facilities	6.5%
Cooling Towers	6.5%
Skin Penetration	0.5%
Swimming Pools	2%
Number of Year 8 & 9 Enrolments	15.0%
Number of clients attending clinics	15.0%
<b>Total</b>	<b>100%</b>

Activity Description	Code	Activity weighting	Constituent Council -1	Constituent Council - 2	Constituent Council - 3	Constituent Council - 4	Constituent Council - 5	Total
Administration (to be shared evenly )	<b>A</b>	12.5%	12.5%/ CC	12.5%/ CC	12.5%/ CC	12.5%/ CC	12.5%/ CC	12.5%
Food Safety Activity.	<b>B</b>	35%	(N/B)x AW	(N/B)x AW	(N/B)x AW	(N/B)x AW	(N/B)x AW	28.5%
Environmental Health Complaints	<b>C</b>	7%	(N/C)x AW	(N/C)x AW	(N/C)x AW	(N/C)x AW	(N/C)x AW	11%
Supported Residential Facilities.	<b>D</b>	6.5%	(N/D)x AW	(N/D)x AW	(N/D)x AW	(N/D)x AW	(N/D)x AW	10%
High Risk Manufactured Water Systems	<b>E</b>	6.5%	(N/E)x AW	(N/E)x AW	(N/E)x AW	(N/E)x AW	(N/E)x AW	3%
Skin Penetration	<b>F</b>	0.5%	(N/F)x AW	(N/F)x AW	(N/F)x AW	(N/F)x AW	(N/F)x AW	2%
Public Access Swimming Pools.	<b>G</b>	2%	(N/G)x AW	(N/G)x AW	(N/G)x AW	(N/G)x AW	(N/G)x AW	3%
School enrolments vaccinated	<b>H</b>	15.0%	(N/H)x AW	(N/H)x AW	(N/H)x AW	(N/H)x AW	(N/H)x AW	15%
Clients attending public clinics	<b>I</b>	15.0%	(N/I)x AW	(N/I)x AW	(N/I)x AW	(N/I)x AW	(N/I)x AW	15%
<b>Total Proportion of contribution</b>			<b>Sum A-I</b>	<b>Sum A-I</b>	<b>Sum A-I</b>	<b>Sum A-I</b>	<b>Sum A-I</b>	<b>100%</b>

- N = Number in Constituent Council area.  
B through to I = Total number in all Constituent Councils.  
AW = Activity weighting.  
CC = Number of Constituent Councils (example provided uses five (5) Constituent Councils)

### **5.3 EASTERN HEALTH AUTHORITY WORK HEALTH AND SAFETY AND RETURN TO WORK POLICY**

Author: Michael Livori  
Ref: AF17/46

#### **Summary**

The current Eastern Health Authority Work Health Safety and Return to Work Policy has been reviewed and requires adoption.

#### **Report**

An agreement was reached between Return To Work SA and the Local Government Association Workers Compensation Scheme (LGAWCS) in 2015 which allows members of the scheme to formally adopt the peak policy. Each member is party to the commitments within the policy by their membership of the LGAWCS. It is now possible to simply reference the peak policy within EHA documentation.

The LGAWCS has recently reviewed (9 September 2020) and updated the peak Work Health Safety and Return to Work Policy.

The revised document is provided as attachment 1.

Minor changes have been made to the policy and are detailed in the document history on page 4 of the policy.

These amendments include the incorporation of LGASA Mutual Services, changes to definitions and inclusion of Person Conducting a Business or Undertaking (PCBU) responsibilities.

It is recommended that EHA endorse the amended policy.

#### **RECOMMENDATION**

That:

1. The report regarding the Work Health Safety and Return to Work Policy is received.
2. The policy marked attachment 1 is adopted as Eastern Health Authority's Work Health Safety and Return to Work Policy.

# Work Health Safety and Return to Work Policy

## Overview

The Local Government Association of South Australia (LGA) is, for the purposes of the Return to Work Act 2014, the nominated Employer for a group of Self Insured Employers which includes all Local Government entities (Councils and Prescribed Bodies (Members)).

In conjunction with the LGA, LGA Mutual Services and its Members, the Local Government Association Workers Compensation Scheme (LGAWCS) administers the principles and commitments outlined within this policy. The above parties are committed to, within the appropriate scope of involvement and level of remit, to work towards the strategic plan mission to:

***“Provide unique cover and risk services that meet our Members’ needs”***

This Policy is designed to provide direction on the system structure that will be applied by Local Government to achieve the commitments as documented below.

## 1. Purpose

To ensure, so far as is reasonably practicable, the health and safety of workers\* and others via a Management Systems approach to Work Health and Safety (WHS) and Return to Work (RTW), in line with the organisational vision of Local Government Workplaces. This will be established by:

1. Management commitment to WHS and RTW in accordance with organisational objectives.
2. Development of a WHS and RTW System and Action Plans which support identified policy objectives and procedural requirements.
3. Implementation of individual elements as outlined in the WHS and RTW System and Action Plans.
4. Measurement and evaluation of the WHS and RTW System against defined objectives, targets and performance indicators.
5. Reviewing the WHS and RTW System and Action Plans to identify scope for continuous improvement.

*\* NB: Definition of a worker is different for the purposes of the Return to Work Act 2014 and the Work Health and Safety Act 2012 (see definitions section below).*

## 2. Scope

This policy applies to Local Government workers whilst at work.

This policy should be read in conjunction with any provisions of Enterprise Bargaining Agreements and any other Federal or State Legislation directly or indirectly which affects employees of Local Government entities, relating to work in WHS and RTW.

## 3. References

1. Local Government Act, 1999
2. Work Health and Safety Act 2012
3. Work Health and Safety Regulations 2012
4. Return to Work Act 2014
5. Return to Work Regulations 2015
6. Code for the Conduct of Self Insured Employers under the Return to Work Scheme which includes the Performance Standards (Injury management standards for self-insured employers April 2019 and Work Health and Safety standards for self-insured employers August 2017)
7. ISO45001: 2018 Occupational health and safety management systems



## 4. Definitions

Management System	<p>Set of interrelated or interacting elements of an organisation to establish policies and objectives and processes to achieve those objectives. Note 2: The system elements include the organisation's structure, roles and responsibilities, planning, operation, performance evaluation and improvement.</p> <p>[As defined within ISO45001:2018]</p>
PCBU	<p>A "<i>Person Conducting a Business or Undertaking</i>" as described in section 5 of the WHS Act is the entity with the primary duty of care.</p> <p>Councils "in terms of the organisation" and Prescribed Bodies are PCBUs for the purpose of the Act.</p>
Work Health and Safety Management System (WHSMS)	<p>An orderly arrangement of interdependent activities and related procedures that drives an organisation's WHS performance.</p> <p>[as defined by the RTWSA Work Health and Safety Guidelines August 2017]</p> <p>In Local Government the WHS Management System must also comply with the Code of Conduct for Self-Insured Employers under the Return to Work Scheme which includes Performance Standards.</p>
Worker (for the purposes of the WHS Act 2012 - Section 7)	<p>A person is a <i>worker</i> if the person carries out work in any capacity for a person conducting a business or undertaking, including work as—</p> <ul style="list-style-type: none"> <li>(a) an employee; or</li> <li>(b) a contractor or subcontractor; or</li> <li>(c) an employee of a contractor or subcontractor; or</li> <li>(d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking; or</li> <li>(e) an outworker; or</li> <li>(f) an apprentice or trainee; or</li> <li>(g) a student gaining work experience; or</li> <li>(h) a volunteer; or</li> <li>(i) a person of a prescribed class.</li> </ul>
Worker (for the purposes of the RTW Act 2014 - Section 4)	<p>A <i>worker</i> means—</p> <ul style="list-style-type: none"> <li>(a) a person by whom work is done under a contract of service (whether or not as an employee);</li> <li>(b) a person who is a worker by virtue of Schedule 1;</li> <li>(c) a self-employed worker,</li> </ul> <p>and includes a former worker and the legal personal representative of a deceased worker.</p>
Return to Work (RTW)	<p>For the purposes of this policy RTW includes both Claims Management activities and Return to Work activities.</p>

## 5. Policy Objectives

Local Government is committed to and able to demonstrate application of the following objectives:

1. Providing and undertaking measures to eliminate risks to health and safety, so far as is reasonably practicable. If it is not reasonably practicable to eliminate risks to health and safety, then to minimise those risks so far as is reasonably practicable and to demonstrate a systematic approach to the planning and implementation of Work Health and Safety processes that is compliant with the WHS Act 2012 and Regulations and self-insurance requirements;
2. Implementation of effective and early Return to Work procedures in accordance with the Return to Work Act 2014, and associated Regulations, to assist work injured employees to return to work and achieve the best practicable levels of physical and mental recovery;
3. Implementation of equitable Claims Management, in accordance with the Return to Work Act 2014 and associated Regulations, for employees who suffer an injury in the course of their employment;
4. Maintaining effective processes and procedures for consultation, coordination and cooperation in WHS and RTW matters;
5. Monitoring and reviewing WHS and RTW System Performance and Action Plans, objectives and measures;
6. Further, as well as the above Objectives, Local Government recognises and is able to demonstrate (at the pertinent system level within the Local Government structure as appropriate), application of the following within the WHSMS:
  - (a) The requirement to meet legislative compliance;
  - (b) Processes for ongoing review and continuous improvement;
  - (c) The requirement for ongoing review of this WHS and RTW Policy and supporting Policies;
  - (d) The commitment that adequate resources and appropriate internal / external expertise will be used so far as is reasonably practicable, when required;
  - (e) Other relevant supporting policies and procedures that support the WHS and RTW systems;
  - (f) A commitment to communicating relevant information to relevant workers in an appropriate manner;
  - (g) Its obligations to workers and others while workers are at work and whilst other persons may be at risk from work carried out, so far as is reasonably practicable;
  - (h) The requirement for an effective hazard management approach to WHS, which encompasses the identification, assessment and elimination or control of hazards;
7. This policy will be reviewed regularly and updated as required for continued suitability and effectiveness.

## 6. Responsibilities

1. The LGAWCS is accountable for conducting planning, monitoring and review activities and confirming that organisational and policy objectives are being met in relation to the self-insurance requirements.
2. The senior management teams at the various levels within the Local Government structure, are accountable for checking that the organisation at that level meets their duties as a PCBU and Scheme

Member and has available for use, and uses, appropriate resources and processes to enact this policy and supporting policies and procedures effectively.

3. Supervisors/Managers are accountable for bringing this policy and supporting policies and procedures to the attention of relevant workers, applying implementation processes in their areas of responsibility and confirming, through supervisory activities, that this policy and supporting policies and procedures are adhered to.
4. Supervisors/Managers are accountable for checking that workers have had appropriate training to undertake the activities identified within this policy and supporting policy and procedures.
5. Workers are accountable for complying and co-operating with the requirements of this policy and supporting policies and procedures, and for reporting any inability to do so to management at the earliest opportunity.
6. Further specific responsibilities and accountabilities are detailed within the supporting WHS and RTW management system policies and procedures.

## Review

This Work Health Safety & Return to Work Policy shall be reviewed by Local Government at a minimum within three (3) years of issued date, (or on significant change to legislation or aspects included in this policy that could affect health and safety and/or return to work practices).

## Signed



Chief Executive Officer, LGA



Chairperson, LGASA Mutual Services

**Date:** 30 / 9 / 2020

**Date:** 30 / 09 / 2020

Non-English translations of this policy can be made available if required.

Document History		
Version No.	Issue Date	Description of Change
1.0	01/09/2013	Original WHS & Injury Management Policy.
2.0	04/06/2015	Updated Policy to include introduction of RTW Act 2014 requirements & renamed to WHS & RTW Policy.
3.0	11/09/2017	Scheduled review of policy, minor amendments to terms.
4.0	09/09/2020	Scheduled review of policy, amendments to incorporate LGASA Mutual Services, changes to definitions & inclusion of PCBU responsibilities

#### **5.4 CODE OF CONDUCT FOR EASTERN HEALTH AUTHORITY BOARD MEMBERS**

Author: Michael Livori  
Ref: AF17/25

##### **Summary**

The Code of Conduct for Eastern Health Authority (EHA) Board Members has been reviewed and an updated version is presented for consideration and adoption.

##### **Report**

The purpose of EHA's Code of Conduct for Board Members is to provide:

- a statement of the desired behaviour to be observed by Board Members
- a public declaration of the principles of good conduct and standards of behaviour, which EHA's stakeholders could reasonably expect of the EHA Board Members
- a statement of the desired standards of behaviour which EHA has agreed an individual should demonstrate when carrying out his or her role as a Board Member and
- guidance to Board Members to assist them to carry out their duties in an appropriate manner and information for the community as to the manner in which Board Members are expected to conduct themselves.

A Board Members Complaints Handling Policy forms part of the Code of Conduct to address any complaints relating to Board Member conduct.

The current code has been reviewed with assistance from Norman Waterhouse Lawyers and a revised version is presented to members for consideration.

Minor grammatical amendments and updates have been made to the Code of Conduct for Board Members to bring the document in line with other EHA policies.

The Board Members Complaints Handling Policy is proposed to be renamed as the Board Members Complaints Handling Procedure to more accurately reflect its purpose which is to set out a process for dealing with complaints relating to Members of the Board of Management.

This Procedure also appropriately references the proposed Public Interest Disclosure Procedure. References to an "Independent Assessor" have been replaced with reference to an "Investigator" also to more accurately reflect the function such a person undertakes in relation to complaints.

A marked-up version of the Board Member Code of Conduct (which includes the Board Members Complaints Handling Procedure) highlighting the proposed changes is provided to members as attachment 1.

A “clean copy” of the document is provided as attachment 2 for consideration and adoption.

**RECOMMENDATION**

That:

1. The Code of Conduct for Eastern Health Authority Board Members Report is received.
2. The Board Member Code of Conduct (which includes the Board Members Complaints Handling Procedure) provided as attachment 2 to this report is adopted.



## CODE OF CONDUCT FOR BOARD MEMBERS

Policy Reference	GOV01
Date of initial Board Adoption	10 November 1999
Minutes Reference	<del>2:1199</del>
Date of Audit Committee Endorsement (if applicable)	N/A
Date last reviewed by Eastern Health Authority Board of Management	<del>21 February 2018</del> <u>18 November 2020</u>
<i>Related Document Reference</i>	EHA Charter 3.2 & 3.3

### 1. Introduction

This Code of Conduct ([this Code](#)) ~~sets out is a public declaration of~~ the principles of good conduct and standards of behaviour that the ~~Board Members of~~ [the Board of Management \(the Board\)](#) of Eastern Health Authority ("EHA") have agreed to demonstrate.

The standards in this Code of Conduct are in addition to any statutory requirements of the *Local Government Act 1999* or any other relevant Act or Regulation applicable to Board Members [of EHA](#) in the performance of their [function](#), role and responsibilities.

### 2. Statement of Commitment

We, the Members of the Board of EHA, are committed to discharging our duties conscientiously and to the best of our ability. We will not at any time make improper use of our position as a ~~Board Member~~ [of the Board](#) or of any information acquired in the course of our duties.

In the performance of our role we will act with honesty and integrity and conduct ourselves in a way that generates community trust and confidence in us as individuals and enhances the role and image of EHA.

In addition to all legislative requirements we, the ~~Members of the~~ Board of EHA, agree to abide by this Code ~~of Conduct~~ and have adopted the requirements [set out herein](#) as the standards of behaviour that we will observe in the performance of our ~~role~~ [functions, duties](#) and responsibilities.

[D12/1640\[v4\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

~~TRIM: D12/1640[v3]~~

### 3. Principles of this Code of Conduct

As Members of the Board of EHA we will –

#### 3.1 Role of a Board Member

- show commitment and discharge our duties conscientiously and to the best of our ability
- act in a fair, honest and proper manner and according to the law
- act with reasonable care and be diligent in the performance of our [functions](#), duties and responsibilities
- act in good faith and not for improper or ulterior motives
- have due regard to the laws dealing with conflict of interest in relation to all our duties and behaviours and exercise the highest level of integrity expected of people holding public office
- not misuse our positions to gain an advantage for ourselves or others or to cause detriment to EHA
- at all times behave in a manner that maintains and enhances the image of EHA and/or does not reflect adversely on EHA, ~~and~~
- ~~be~~ impartial in reaching decisions and accept the responsibilities associated with those decisions.

#### 3.2 Relationships

- act in a reasonable, just and non-discriminatory manner when dealing with people
- seek to achieve a team approach when dealing with [staff the employees](#) of EHA and an environment of mutual respect and trust
- treat staff of EHA with respect for and acceptance of their different roles in achieving EHA's objectives
- seek to establish a working relationship with fellow [Board Members of the Board of EHA](#) that recognises and respects the diversity of opinion and seeks to achieve the best possible outcomes for the community

[D12/1640\[v4\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

~~TRIM: D12/1640[v3]~~

- in our dealings with other ~~Board~~ Members of the Board of EHA and with ~~staff member~~the employees of EHA, ensure that our behaviour is not and cannot be interpreted to constitute bullying or harassment, ~~and~~
- ensure that we uphold the values of EHA in all interactions.

### 3.3 Information

- not use information obtained as a result of our position as a ~~Board~~ Member of the Board of EHA for any purpose other than that required to fulfil our roles and responsibilities as a ~~Board~~ Member of the Board of
- respect and maintain confidentiality, and not at any time release to any person or organisation any documents or information that the Board ~~of Management of EHA~~ has resolved be kept confidential, ~~or~~ that have otherwise been delivered to us as a member of the Board with an indication that they are confidential or that we ought reasonably know are confidential and/or ought to be kept confidential
- ensure any information we give to the media in relation to the ~~Board or~~ decisions of EHA is accurate and not a misuse of information.

### 3.4 Communication

- be fair and honest in our dealings with individuals and organisations and behave in a manner that facilitates constructive communication between the Board of EHA and the community
- when making comments to the media, state clearly that we are expressing our personal opinion and not that of EHA (unless a ~~Board m~~ Member of the Board is authorised by ~~the Board of~~ EHA to speak on its behalf)
- when making personal comments, show respect for decisions of EHA, other Members of the Board ~~Members~~ and employees of EHA, ~~and~~
- in our dealings with other Members of the Board ~~Members~~, ~~members employees of EHA of staff~~ and the community, endeavour to ensure that our communication, written or verbal (or otherwise), is not offensive to any person or otherwise defamatory.

## 4. Complaints

A complaint about the behaviour of a ~~Board~~ Member of the Board under ~~the this~~ Code of Conduct will be investigated and appropriate action taken to ensure the complaint is addressed and to reduce the likelihood of further breaches of ~~the this~~ Code of Conduct

D12/1640[v4]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

TRIM: D12/1640[v3]



occurring. ~~The EHA Board~~ has adopted a procedure for handling such complaints. (Attached to this policy)

Any person who believes a breach of this Code of Conduct may have occurred is encouraged to bring details to the attention of the Chief Executive Officer of EHA via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)).

A disclosure of public interest information can be made in accordance with EHA's Public Interest Disclosure Procedure.

## 5. Further Information

The public may inspect this Code ~~of Conduct for Board Members~~ on EHA's website ([www.eha.sa.gov.au](http://www.eha.sa.gov.au)) and at the principal office of EHA at 101 Payneham Road, St Peters.

Any queries in relation to this Code ~~of Conduct should can~~ be directed to the Chief Executive Officer of EHA via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)).

## 6. Statement of Adoption and Review

This Code of Conduct was adopted on ~~10 November 1999~~ 10 November 1999 and will be reviewed periodically.

EHA may at any time alter this Code ~~of Conduct~~, or substitute a new Code of Conduct.

D12/1640[v4]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

~~TRIM: D12/1640[v3]~~

~~Code of Conduct for Board Members~~ Eastern Health Authority Board Member Complaints Handling Procedure

---

D12/1640[v4]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

~~TRIM: D12/1640[v3]~~



## EASTERN HEALTH AUTHORITY

### BOARD MEMBER COMPLAINTS HANDLING ~~POLICY~~ PROCEDURE

<u>Procedure Reference</u>	<u>GOVP03</u>
<u>Date of initial Board Adoption</u>	<u>10 November 1999</u>
<u>Minutes Reference</u>	<u>2:1199</u>
<u>Date of Audit Committee endorsement (if applicable)</u>	<u>N/A</u>
<u>Date last reviewed by Eastern Health Authority Board of Management</u>	<u>18 November 2020</u>
<u>Applicable legislation</u>	<u>EHA Charter 3.2 &amp; 3.3</u>

#### 1. Introduction

Eastern Health Authority ("EHA") has adopted a Code of Conduct for Board Members. The Code of Conduct ~~is a public declaration sets out of~~ the principles of good conduct and standards of behaviour that the Members of the Board ~~of EHA (the Board)~~ have agreed to demonstrate. The standards in the Code of Conduct are in addition to any statutory requirements of the *Local Government Act 1999* or any other relevant Act or Regulation applicable to Board Members in the performance of their function, role and responsibilities.

This ~~policy procedure~~ sets out the procedure that will be followed by EHA if a complaint is made under the processes to support Board Members in complying with this Code of Conduct, and to address any complaints relating to the Code.

This procedure is in addition to the Public Interest Disclosure Procedure adopted by EHA which may apply to a complaint made under the Code of Conduct (the Code). In circumstances where the public interest disclosure procedure applies, if there is any inconsistency between this procedure and the Public Interest Disclosure Procedure, the latter will prevail to the extent of the inconsistency.

#### 2. Behaviour Contrary to the Code of Conduct

D12/1640[v4]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

~~TRIM: D12/1640[v3]~~

## ~~Code of Conduct for Board Members~~ Eastern Health Authority Board Member Complaints Handling Procedure 3

EHA is committed to supporting members in complying with the Code ~~of Conduct~~ and to investigating and addressing any complaints made relating to the Code.

### 3. Complaint Handling Process

#### 3.1 Making a Complaint

A complaint made by any person that relates to an alleged breach of ~~this the~~ Code ~~of Conduct~~ must:

- be made in writing;
- identify the provision(s) of the Code which it alleges have been breached and provide all available evidence that supports the allegation(s) of ~~the~~ breach; and
- be delivered to the Chief Executive Officer of EHA (~~the CEO~~) (which includes any person acting in the Office of ~~Chief Executive Officer CEO of EHA~~).

Receipt of the complaint will be acknowledged to the complainant within 3 days of receiving the complaint ~~where practicable~~.

#### 3.2 Disclosure of complaint

The ~~Member of the Board Member~~ who is the subject of the complaint will be notified within 3 days of receipt of the complaint and of its substance, unless the complaint is referred to the Office for Public Integrity in accordance with the Independent Commissioner Against Corruption's *Directions and Guidelines for Public Officers* ~~or it is otherwise not possible or practicable to do so~~.

The complaint will be treated with strict confidentiality ~~as permitted or required by law (subject to satisfying the requirements of Section 90(3) of the Local Government Act 1999) until such time as it has been fully investigated and finally determined. In particular, if the disclosure of information by the complainant has been made under the Whistleblower's Protection Act 1993 then the identity of the complainant will remain confidential unless the person consents, except so far as may be necessary to ensure that the matters to which the information relates are properly investigated.~~

The complainant will be informed that he or she must also observe confidentiality with respect to the complaint.

On receipt of a complaint the ~~Chief Executive Officer CEO~~ must bring the fact of the complaint (but not the detail of the allegations) to the attention of the Board ~~of Management of EHA as soon as possible at the next formal meeting of the Board and, it is to be received by the Board in confidence, subject to meeting one or more of the grounds under Section 90(3) of the Local Government Act 1999.~~

[D12/1640\[v4\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

TRIM: [D12/1640\[v3\]](#)

## Code of Conduct for Board Members Eastern Health Authority Board Member Complaints Handling Procedure

4

### 3.3 Assessment of Complaint

The ~~CEO Chief Executive Officer of EHA~~ will consider whether the complaint raises a ~~potential issue reasonable suspicion~~ of:

- corruption in public administration;
- serious or systemic 'misconduct in public administration'; or
- serious or systemic maladministration in public administration,

(as those ~~concepts terms~~ are defined in the *Independent Commissioner Against Corruption Act 2012*).

If ~~the complaint is required to be reported to a reasonable suspicion of this nature is raised, then the complaint will be referred to the~~ Office for Public Integrity ~~it will reported~~ in accordance with the Independent Commissioner Against Corruption's *Directions and Guidelines for Public Officers*. ~~In these circumstances, a~~ An investigation of the complaint under ~~clause 3.4 this procedure~~ will only occur with the concurrence of ~~either the Independent Commissioner Against Corruption or the Office for Public Integrity.~~

~~If there is no reasonable suspicion of this nature raised by the complaint, then the Chief Executive Officer will cause a proper investigation of the complaint by appointing an Independent Assessor from the previously agreed list adopted by EHA to conduct the investigation.~~

### 3.4 Investigation of Complaint by an ~~Independent Assessor~~ Investigator

The ~~following processes will be followed with respect to assessment and investigation of complaints depending on the level of seriousness: CEO will cause an investigation of a complaint alleging a breach of the Code of Conduct~~ Code by appointing a person or body to conduct the investigation on EHA's behalf.

3.4.1 The ~~investigator Independent Assessor~~ may determine that no further action should be taken with respect to ~~the complaint an alleged breach~~ where the ~~investigator considers Independent Assessor determines~~ that the ~~allegation complaint~~ is ~~trivial, frivolous or vexatious~~. In this case the ~~investigator Independent Assessor~~ will prepare a report to that effect and provide it to the ~~Chief Executive Officer CEO of EHA~~.

3.4.2 If the ~~investigator considers an investigation of the complaint is appropriate, the investigator will ensure that:~~ ~~Independent Assessor identifies issues of substance that warrant further investigation:~~

3.4.2.1 the investigation will be a thorough and balanced assessment of the available evidence regarding the alleged breach, the relevant circumstances prevailing at the time of the alleged breached and

[D12/1640\[v4\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

TRIM: [D12/1640\[v3\]](#)

**Code of Conduct for Board Members Eastern Health Authority Board Member Complaints Handling Procedure** 5

any other factors deemed relevant to making a fair and reasonable judgement about the matter;

- 3.4.2.2 the Board Member who is the subject of the allegation(s) complaint will be provided with a reasonable opportunity to respond to explain his/her actions and to make a written submission on the allegations to the investigator; Any such submission will be provided to the Independent Assessor;
- 3.4.2.3 the investigator Independent Assessor must take all reasonable steps to ensure a written report is provided to provide EHA with a final written report on the investigation undertaken within fourteen days of receiving written submissions from the complainant person who made the complaint and/or the Board Member who is the subject of the complaint, or such longer period as the Board of EHA may determine;
- 3.4.2.4 if EHA or the investigator Independent Assessor forms the view that additional time will be needed to conclude the investigation and finalise the report the Independent Assessor investigator should bring this to the attention of EHA at the earliest convenience, but at the very least, before the expiration of the fourteen day timeframe; and
- 3.4.2.5 after receipt of the final report from the Independent Assessor investigator, EHA must provide to the Board Member who is the subject of the complaint and to the complainant person who made the complaint, a copy of the investigation report on a confidentiality basis.

### **3.5 Determination of Complaint**

- 3.5.1 The final report of the Independent Investigator investigator will be presented at a meeting of EHA in confidence (ie public excluded), subject to Section 90(3) of the *Local Government Act 1999* being satisfied. If the matter will be considered in confidence, then the Board can resolve to impose make an order of confidentiality in respect of the final report. Exceptions to this the order of regarding confidentiality should provide for:
- (a) the provision of the final report and Board's resolution decision in respect of the complaint to both the Board Member the subject of the complaint and the complainant; and
  - (b) if relevant, for the purpose of clause 3.5.4.5.
- 3.5.2 If the final report recommends the application of a penaltyies or a sanction, the Board Member, the subject of the allegation(s) complaint, will be provided with a reasonable opportunity to make submissions on the proposed penalty

D12/1640[v4]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

TRIM: D12/1640[v3]

~~Code of Conduct for Board Members~~Eastern Health Authority Board Member Complaints Handling Procedure 6

~~or sanction comment in writing upon the contents and findings contained in the report and on the appropriateness of the proposed penalty. Such comment submissions must be taken into account by the Board of EHA when determining the complainthe penalty or sanction to impose.~~

3.5.3 On receipt of the final report of the ~~Independent Assessor investigator~~ the Board ~~of EHA~~ (excluding the Board ~~member Member~~ the subject of the complaint) will determine an appropriate penalty or sanction to impose should there be a finding that there has been a breach of this Code of Conduct.

3.5.4 EHA ~~may has the power to~~ impose one or more of the following penalties or sanctions in relation to a finding of a breach of the Code ~~of Conduct~~:

3.5.4.1 censure the Board Member;

3.5.4.2 request a public apology from the Board Member in relation to the breach;

3.5.4.3 ~~recommend request~~ the Board Member undertake a particular training course or receive appropriate instruction relevant to the breach;

3.5.4.4 ~~EHA~~ make a recommendation under ~~clause 2.2(g) of~~ the Charter for EHA to the Constituent constituent Council council of which the Board Member ~~who is the subject of the complaint is~~ a member, that the Constituent constituent Council council terminate the appointment of the Board Member as a Board Member of the Board of EHA;

and in any such case the Board may:

3.5.4.5 report the complaint to the Constituent constituent Councils councils and provide the Constituent constituent Councils councils with a copy of any report prepared by the investigator; Independent Assessor and

3.5.4.6 make a public announcement regarding the matter, including of the complaint made against, the finding the Board Member, the determination and the penalty or sanction (if any) imposed on the Board Member.

~~3.5.5 A copy of the Board 's resolution will be provided on a confidential basis to the Board Member and the complainant.~~

#### 4. Confidentiality & Procedural Fairness

D12/1640[v4]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

~~TRIM: D12/1640[v3]~~

## Code of Conduct for Board Members Eastern Health Authority Board Member Complaints Handling Procedure 7

All ~~investigations of deliberations by the Board of EHA and the Independent Assessor process in regard to~~ an alleged breach of the Code ~~of Conduct~~ will be conducted in confidence ~~save where required to be disclosed by law and until a final report is provided to the Board of EHA, subject to satisfying the requirements of Section 90(3) of the Local Government Act 1999, and will be maintained as confidential until finally determined, at which time the Board of EHA may consider whether to keep the information and documents relating to the matter confidential. must decide the ongoing status of the confidentiality order.~~

The principles of procedural fairness must be observed from the time of receipt of the complaint and during the investigation of the complaint to final determination. The final report is to show due process and the reasoning for any conclusions and recommendations.

### 5. Further Information

Members of the public may inspect this ~~Policy Procedure~~ on EHA's website ([www.eha.sa.gov.au](http://www.eha.sa.gov.au)) and at the principal office of EHA at 101 Payneham Road St Peters.

Any queries in relation to this ~~Policy Procedure~~ should be directed to the Chief Executive Officer of EHA via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)).

### 6. Statement of Adoption and Review

This ~~policy Procedure~~ was adopted on ~~10 November 1999~~ 10 November 1999 and will be reviewed periodically.

EHA may at any time alter this ~~policy Procedure~~ or substitute ~~a new policy Procedure~~.

[D12/1640\[v4\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

TRIM: [D12/1640\[v3\]](#)





## CODE OF CONDUCT FOR BOARD MEMBERS

Policy Reference	GOV01
Date of initial Board Adoption	10 November 1999
Minutes Reference	
Date of Audit Committee Endorsement (if applicable)	N/A
Date last reviewed by Eastern Health Authority Board of Management	18 November 2020
<i>Related Document Reference</i>	EHA Charter 3.2 & 3.3

### 1. Introduction

This Code of Conduct (this Code) sets out the principles of good conduct and standards of behaviour that the Members of the Board of Management (the Board) of Eastern Health Authority (EHA) have agreed to demonstrate.

The standards in this Code of Conduct are in addition to any statutory requirements of the *Local Government Act 1999* or any other relevant Act or Regulation applicable to Board Members of EHA in the performance of their function, role and responsibilities.

### 2. Statement of Commitment

We, the Members of the Board of EHA, are committed to discharging our duties conscientiously and to the best of our ability. We will not at any time make improper use of our position as a Member of the Board or of any information acquired in the course of our duties.

In the performance of our role we will act with honesty and integrity and conduct ourselves in a way that generates community trust and confidence in us as individuals and enhances the role and image of EHA.

In addition to all legislative requirements we, the Board of EHA, agree to abide by this Code and have adopted the requirements set out herein as the standards of behaviour that we will observe in the performance of our functions, duties and responsibilities.

### 3. Principles of this Code of Conduct

As Members of the Board of EHA we will –

#### 3.1 Role of a Board Member

- show commitment and discharge our duties conscientiously and to the best of our ability
- act in a fair, honest and proper manner and according to the law
- act with reasonable care and be diligent in the performance of our functions, duties and responsibilities
- act in good faith and not for improper or ulterior motives
- have due regard to the laws dealing with conflict of interest in relation to all our duties and behaviours and exercise the highest level of integrity expected of people holding public office
- not misuse our positions to gain an advantage for ourselves or others or to cause detriment to EHA
- at all times behave in a manner that maintains and enhances the image of EHA and/or does not reflect adversely on EHA
- be impartial in reaching decisions and accept the responsibilities associated with those decisions.

#### 3.2 Relationships

- act in a reasonable, just and non-discriminatory manner when dealing with people
- seek to achieve a team approach when dealing with the employees of EHA and an environment of mutual respect and trust
- treat staff of EHA with respect for and acceptance of their different roles in achieving EHA's objectives
- seek to establish a working relationship with fellow Members of the Board of EHA that recognises and respects the diversity of opinion and seeks to achieve the best possible outcomes for the community
- in our dealings with other Members of the Board of EHA and with the employees of EHA, ensure that our behaviour is not and cannot be interpreted to constitute bullying or harassment
- ensure that we uphold the values of EHA in all interactions.

### 3.3 Information

- not use information obtained as a result of our position as a Member of the Board of EHA for any purpose other than that required to fulfil our roles and responsibilities as a Member of the Board of
- respect and maintain confidentiality, and not at any time release to any person or organisation any documents or information that the Board of EHA has resolved be kept confidential, that have otherwise been delivered to us as a member of the Board with an indication that they are confidential or that we ought reasonably know are confidential and/or ought to be kept confidential
- ensure any information we give to the media in relation to the decisions of EHA is accurate and not a misuse of information.

### 3.4 Communication

- be fair and honest in our dealings with individuals and organisations and behave in a manner that facilitates constructive communication between the Board of EHA and the community
- when making comments to the media, state clearly that we are expressing our personal opinion and not that of EHA (unless a Member of the Board is authorised by EHA to speak on its behalf)
- when making personal comments, show respect for decisions of EHA, other Members of the Board and employees of EHA
- in our dealings with other Members of the Board, employees of EHA and the community, endeavour to ensure that our communication, written or verbal (or otherwise), is not offensive to any person or otherwise defamatory.

## 4. Complaints

A complaint about the behaviour of a Member of the Board under this Code will be investigated and appropriate action taken to ensure the complaint is addressed and to reduce the likelihood of further breaches of this Code occurring. EHA has adopted a procedure for handling such complaints. (Attached to this policy)

Any person who believes a breach of this Code of Conduct may have occurred is encouraged to bring details to the attention of the Chief Executive Officer of EHA via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)).

A disclosure of public interest information can be made in accordance with EHA's Public Interest Disclosure Procedure.

**5. Further Information**

The public may inspect this Code on EHA's website ([www.eha.sa.gov.au](http://www.eha.sa.gov.au)) and at the principal office of EHA at 101 Payneham Road, St Peters.

Any queries in relation to this Code can be directed to the Chief Executive Officer of EHA via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)).

**6. Statement of Adoption and Review**

This Code of Conduct was adopted on 10 November 1999 and will be reviewed periodically.

EHA may at any time alter this Code or substitute a new Code of Conduct.



## EASTERN HEALTH AUTHORITY BOARD MEMBER COMPLAINTS HANDLING PROCEDURE

Procedure Reference	GOVP03
Date of initial Board Adoption	10 November 1999
Minutes Reference	2:1199
Date of Audit Committee endorsement (if applicable)	N/A
Date last reviewed by Eastern Health Authority Board of Management	18 November 2020
Applicable legislation	EHA Charter 3.2 & 3.3

### 1. Introduction

Eastern Health Authority (EHA) has adopted a Code of Conduct for Board Members. The Code of Conduct sets out the principles of good conduct and standards of behaviour that the Members of the Board of EHA (the Board) have agreed to demonstrate. The standards in the Code of Conduct are in addition to any statutory requirements of the *Local Government Act 1999* or any other relevant Act or Regulation applicable to Board Members in the performance of their function, role and responsibilities.

This procedure sets out the procedure that will be followed by EHA if a complaint is made under the Code of Conduct.

This procedure is in addition to the Public Interest Disclosure Procedure adopted by EHA which may apply to a complaint made under the Code of Conduct (the Code). In circumstances where the public interest disclosure procedure applies, if there is any inconsistency between this procedure and the Public Interest Disclosure Procedure, the latter will prevail to the extent of the inconsistency.

### 2. Behaviour Contrary to the Code of Conduct

EHA is committed to supporting members in complying with the Code and to investigating and addressing any complaints made relating to the Code.

### 3. Complaint Handling Process

#### 3.1 Making a Complaint

A complaint made by any person that relates to an alleged breach of the Code must:

- be made in writing;
- identify the provision(s) of the Code which it alleges have been breached and provide all available evidence that supports the allegation(s) of the breach; and
- be delivered to the Chief Executive Officer of EHA (the CEO) (which includes any person acting in the Office of CEO).

Receipt of the complaint will be acknowledged to the complainant within 3 days of receiving the complaint where practicable.

#### 3.2 Disclosure of complaint

The Member of the Board who is the subject of the complaint will be notified within 3 days of receipt of the complaint and of its substance, unless the complaint is referred to the Office for Public Integrity in accordance with the Independent Commissioner Against Corruption's *Directions and Guidelines for Public Officers* or it is otherwise not possible or practicable to do so.

The complaint will be treated with strict confidentiality as permitted or required by law until such time as it has been fully investigated and finally determined.

The complainant will be informed that he or she must also observe confidentiality with respect to the complaint.

On receipt of a complaint the CEO must bring the fact of the complaint (but not the detail of the allegations) to the attention of the Board as soon as possible.

#### 3.3 Assessment of Complaint

The CEO will consider whether the complaint raises a potential issue of:

- corruption in public administration;
- serious or systemic 'misconduct in public administration'; or
- serious or systemic maladministration in public administration,

(as those terms are defined in the *Independent Commissioner Against Corruption Act 2012*).

If the complaint is required to be reported to the Office for Public Integrity it will be reported in accordance with the Independent Commissioner Against Corruption's *Directions and Guidelines for Public Officers*. An investigation of the complaint under this procedure will only occur with the concurrence of the Independent Commissioner Against Corruption.

### 3.4 Investigation of Complaint by an Investigator

The CEO will cause an investigation of a complaint alleging a breach of the Code by appointing a person or body to conduct the investigation on EHA's behalf.

- 3.4.1 The investigator may determine that no further action should be taken with respect to the complaint where the investigator considers that the complaint is trivial, frivolous or vexatious. In this case the investigator will prepare a report to that effect and provide it to the CEO.
- 3.4.2 If the investigator considers an investigation of the complaint is appropriate, the investigator will ensure that:
- 3.4.2.1 the investigation will be a thorough and balanced assessment of the available evidence regarding the alleged breach, the relevant circumstances prevailing at the time of the alleged breach and any other factors deemed relevant to making a fair and reasonable judgement about the matter;
  - 3.4.2.2 the Board Member who is the subject of the complaint will be provided with a reasonable opportunity to respond to and make submissions on the allegations to the investigator;
  - 3.4.2.3 the investigator must take all reasonable steps to ensure a written report is provided to EHA on the investigation undertaken within fourteen days of receiving submissions from the complainant and the Board Member who is the subject of the complaint, or such longer period as the Board may determine;
  - 3.4.2.4 if the investigator forms the view that additional time will be needed to conclude the investigation and finalise the report the investigator should bring this to the attention of EHA at the earliest convenience, but at the very least, before the expiration of the fourteen day timeframe; and
  - 3.4.2.5 after receipt of the final report from the investigator, EHA must provide to the Board Member who is the subject of the complaint and to the complainant, a copy of the investigation report on a confidentiality basis.

### 3.5 Determination of Complaint

- 3.5.1 The final report of the investigator will be presented at a meeting of EHA in confidence (ie public excluded), subject to Section 90(3) of the *Local Government Act 1999* being satisfied. If the matter will be considered in confidence, then the Board can resolve to make an order of confidentiality in respect of the final report. Exceptions to the order regarding confidentiality should provide for:

- (a) the provision of the final report and Board's decision in respect of the complaint to both the Board Member the subject of the complaint and the complainant; and
  - (b) if relevant, for the purpose of clause 3.5.4.5.
- 3.5.2 If the final report recommends the application of a penalty or a sanction, the Board Member, the subject of the complaint, will be provided with a reasonable opportunity to make submissions on the proposed penalty or sanction. Such submissions must be taken into account by the Board when determining the penalty or sanction to impose.
- 3.5.3 On receipt of the final report of the investigator the Board (excluding the Board Member the subject of the complaint) will determine an appropriate penalty or sanction to impose should there be a finding that there has been a breach of the Code.
- 3.5.4 EHA may impose one or more of the following penalties or sanctions in relation to a finding of a breach of the Code:
- 3.5.4.1 censure the Board Member;
  - 3.5.4.2 request a public apology from the Board Member in relation to the breach;
  - 3.5.4.3 request the Board Member undertake a particular training course or receive appropriate instruction relevant to the breach;
  - 3.5.4.4 make a recommendation under the Charter for EHA to the constituent council of which the Board Member is a member, that the constituent council terminate the appointment of the Board Member as a Member of the Board of EHA;
- and in any such case the Board may:
- 3.5.4.5 report the complaint to the constituent councils and provide the constituent councils with a copy of any report prepared by the investigator; and
  - 3.5.4.6 make a public announcement regarding the matter, including of the complaint made against, the finding and the penalty or sanction (if any) imposed on the Board Member.

#### **4. Confidentiality & Procedural Fairness**

All investigations of an alleged breach of the Code will be conducted in confidence save where required to be disclosed by law and until a final report is provided to the Board, at which time the Board may consider whether to keep the information and documents relating to the matter confidential.



The principles of procedural fairness must be observed from the time of receipt of the complaint and during the investigation of the complaint to final determination. The final report is to show due process and the reasoning for any conclusions and recommendations.

#### **5. Further Information**

Members of the public may inspect this Procedure on EHA's website ([www.eha.sa.gov.au](http://www.eha.sa.gov.au)) and at the principal office of EHA at 101 Payneham Road St Peters.

Any queries in relation to this Procedure should be directed to the Chief Executive Officer of EHA via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)).

#### **6. Statement of Adoption and Review**

This Procedure was adopted on 10 November 1999 and will be reviewed periodically.

EHA may at any time alter this Procedure or substitute Procedure.

## 5.5 CODE OF CONDUCT FOR EASTERN HEALTH AUTHORITY EMPLOYEES

Author: Michael Livori  
Ref: AF17/37

### Summary

Following a review process a revised Code of Conduct for Eastern Health Authority (EHA) Employees has been developed and is presented for adoption.

### Report

The Local Government (General) (Employee Code of Conduct) Variation Regulations 2018 details a code of conduct applicable to all Council employees.

Previous Local Government Association (LGA) legal advice in relation to the applicability of these (and previous) requirements to employees of a regional subsidiary suggests that *“Subsidiaries of councils are established under section 42 of the LG Act. Under clause 2, Schedule 2 to the LG Act subsidiaries are bodies corporate. Consequently, a subsidiary has a distinct legal identity from its establishing council.*

*Given the legal distinction between a council and a subsidiary established by a council, an employee of a subsidiary is not an employee of a council. The Code only applies to employees of councils and, therefore, employees of subsidiaries are not automatically subject to the Code.”*

The LGA also sought advice previously regarding the concept of “public officer” and its application to employees of council subsidiaries. The advice in relation to this issue stated *“In the local government context, only elected members and council employees are subject to prescribed codes of conduct. The concept of public officers under the ICAC Act is broader than elected members and council employees. There are 'public officers', therefore, that are not subject to a code of conduct.*

*Schedule 1 to the ICAC Act sets out who will be 'public officers' for the purposes of that Act. Members, officers or employees of local government bodies are public officers under the ICAC regime.*

*The term 'local government body' is defined in the ICAC Act to mean a council or a subsidiary of council established under the LG Act. Employees of both councils and subsidiaries are public officers under the ICAC Act. Similarly, elected members and members of a subsidiaries board of management are both 'public officers'. Of these public officers, it is only the elected members and council employees that are subject by operation of law to codes of conduct prescribed under the LG Act.”*

In summary, while a regional subsidiary employee is considered a ‘public officer’ in relation to ICAC Act requirements, the sector-wide Employee Code of Conduct does not automatically apply to them.

Legal advice suggests that employees of subsidiaries cannot be made subject to the Code simply through the inclusion of the Code in the subsidiary's Charter.

EHA has therefore developed a Code of Conduct to be observed by all EHA Employees. The code has broader elements than the sector-wide code of conduct and the LGA template code of conduct for subsidiary employees which both purely relate to gifts and benefits.

The existing code of conduct has been reviewed with assistance from Norman Waterhouse Lawyers and a revised Code of Conduct for Eastern Health Authority Employees (the Code of Conduct) is presented as attachment 1 for adoption.

The amendments proposed to the Code of Conduct provide greater clarity in relation to the persons subject to the Code of Conduct and when an employee has a conflict of interest for the purposes of the Code of Conduct. Attachment 2 provides a comparison with the current code and marks up the changes that have been made.

The Code of Conduct is also proposed to be amended to strengthen confidentiality requirements and make reference to the proposed Public Interest Disclosure Procedure.

## **RECOMMENDATION**

That:

1. The report regarding the Eastern Health Authority Employee Code of Conduct is received.
2. The Eastern Health Authority Employee Code of Conduct marked attachment 1 to the report dated 18 November 2020 is adopted.



## CODE OF CONDUCT FOR EASTERN HEALTH EMPLOYEES

Policy Reference	Gov07
Date of initial Board Adoption	7 May 2014
Minutes Reference	
Date of Audit Committee Endorsement (if applicable)	NA
Date last reviewed by Eastern Health Authority Board of Management	November 2020
Relevant Document Reference	

### 1. Introduction

This Code of Conduct (this Code) sets out the principles of good conduct and standards of behaviour to be observed by all Eastern Health Authority (EHA) employees, including consultants engaged by EHA and persons working for EHA on a temporary basis. All references in this Code to 'employees' includes such persons.

The standards in this Code of Conduct are in addition to any statutory requirements of the *Local Government Act 1999* or any other relevant Act or Regulation applicable to EHA employees in the performance of their role and responsibilities.

Each employee of EHA is a public officer for the purposes of the *Independent Commissioner Against Corruption Act 2012*.

This Code does not exclude the operation of the *Fair Work Act 1994*, the rights of employees and their Unions to pursue industrial claims, or any relevant Awards or Enterprise Agreements made under the *Fair Work Act 1994*. This Code does not affect the jurisdiction of the Industrial Relations Commission.

### 2. Principles of this Code of Conduct

#### 2.1 Undertaking duties

EHA employees will observe the following principles when undertaking their duties:

- show commitment and discharge duties conscientiously and to the best of their ability
- act in a fair, honest and proper manner and according to the law
- act with reasonable care and be diligent in the performance of their duties

D14/5685[v5]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

- comply with all relevant EHA policies, codes and resolutions of which they have been made aware, relevant to their particular role
- comply with all lawful and reasonable directions given by a person with authority to give such directions
- act in good faith and not for improper or ulterior motives
- have due regard to the laws dealing with conflict of interest in relation to all their duties and behaviours and exercise the highest level of integrity expected of people employed within a public authority
- not misuse their position to gain an advantage for themselves or others or to cause detriment to EHA
- take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons, as required by the *Work Health and Safety Act 2012*
- at all times behave in a manner that maintains and enhances the image of EHA and does not reflect adversely on EHA
- be impartial in reaching decisions and accept the responsibilities associated with those decisions.

## 2.2 Relationships

When interacting with other people in the course of their duties, EHA employees will:

- act in a reasonable, just and non-discriminatory manner
- seek to achieve a team approach when dealing with other employees of EHA to develop an environment of mutual respect and trust
- seek to establish a working relationship with other employees of EHA that recognises and respects the diversity of opinion and seeks to achieve the best possible outcomes for the community
- ensure that relationships with external parties do not amount to interference by improper influence, affecting judgement, decisions or actions;
- ensure that their behaviour is not and cannot be interpreted to constitute bullying or harassment
- ensure that they uphold the values of EHA in all interactions.

## 2.3 Information

D14/5685[v5]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

When collecting, using and managing information, EHA employees will:

- not use information obtained as a result of their position for any purpose other than to fulfil their roles and responsibilities as EHA employees
- respect and maintain confidentiality, and not at any time release to any person or organisation any documents that the Board of Management of EHA (the Board) has resolved be kept confidential or that they ought reasonably to know are confidential and/or ought to be kept confidential
- not release information of EHA except for the purpose of fulfilling their role and responsibilities as an EHA employee or as required or authorised by law
- ensure any information provided to another person in the course of fulfilling their role and responsibilities is accurate.

#### **2.4 Communication**

In communicating with other people, EHA employees will:

- be fair and honest in their dealings with individuals and organisations on behalf of EHA and behave in a manner that facilitates constructive communication between EHA and the community
- only make comments to the media regarding EHA if authorised to do so by the Chief Executive Officer of EHA (CEO) or Board of EHA
- when making personal comments, show respect for activities and decisions of EHA
- endeavour to ensure that their communication, written or verbal (or otherwise), is not offensive to any person or otherwise defamatory.

#### **2.5 Conflict of Interest**

If the CEO of EHA has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties he or she:

- must disclose the interest to the Board ; and
- must not, unless the Board otherwise determines, act in relation to the matter.

An employee of EHA (other than the CEO) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties:

- must disclose the interest to the CEO; and
- must not, unless the CEO otherwise determines, act in relation to the matter.

If the CEO determines that an employee with an interest in a matter may act in relation to that matter and the employee is providing advice or making recommendations to the Board or an EHA committee on the matter, the employee must disclose the relevant interest to the Board or the EHA committee.

An employee of EHA (including the CEO) has an interest in a matter for the purposes of clause 2.5 of this Code of Conduct if the employee or a person with whom the employee is closely associated would, if the employee acted in a particular manner in relation to the matter, receive or have a reasonable expectation of receiving a direct or indirect pecuniary benefit or non-pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment or a non-pecuniary detriment.

A person is closely associated with an employee of EHA:

- (a) if that person is a body corporate of which the employee is a director or a member of the governing body; or
- (b) if that person is a proprietary company in which the employee is a shareholder; or
- (c) if that person is a beneficiary under a trust or an object of a discretionary trust of which the employee is a trustee; or
- (d) if that person is a partner of the employee; or
- (e) if that person is the employer or employee of the employee (employment with EHA or a constituent council of EHA is to be disregarded); or
- (f) if that person is a person from whom the employee has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services; or
- (g) if that person is a relative (as defined in the *Local Government Act 1999*) of the employee.

## 2.6 Use of EHA Resources

EHA employees using EHA resources must do so effectively and prudently when undertaking EHA work.

EHA employees must not use EHA resources, including the services of EHA staff, for private purposes, unless legally or properly authorised to do so, with payment to EHA being made where appropriate.

EHA employees must not use public funds or resources in a manner that is irregular or unauthorised.

## 2.7 Gifts and benefits

An EHA employee must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to:

- create a sense of obligation on the part of the employee to a person; or
- influence the employee in the performance or discharge of the employee's functions or duties.

If:

- (a) an EHA Employee receives a gift or benefit in the course of, in connection with or as a consequence of, his or her employment by EHA; or

- (b) a relative of an EHA Employee receives a gift or benefit which could reasonably be considered to be in connection with or as a consequence of the EHA employee's employment by EHA,

the employee must provide details of the gift or benefit to the CEO.

### 3. Complaints

A complaint about the behaviour of an EHA employee under this Code will be investigated and appropriate action taken to ensure the complaint is addressed and to reduce the likelihood of further breaches of this Code occurring.

Any person who believes a breach of this Code may have occurred may make a complaint to the attention of the CEO via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)). If the complaint relates to the CEO, the complaint may be made to the Chair of the Board. A disclosure of public interest information can be made in accordance with EHA's Public Interest Disclosure Procedure.

### 4. Further Information

The public may inspect this Code on EHA's website ([www.eha.sa.gov.au](http://www.eha.sa.gov.au)) and at the principal office of EHA at 101 Payneham Road, St Peters.

Any queries in relation to this Code should be directed to the CEO via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)).

### 5. Statement of Adoption and Review

This Code was adopted on 7 May 2014 and will be reviewed every two years.

EHA may at any time alter this Code, or substitute a new Code of Conduct.

I accept the terms and conditions of this Code of Conduct for Eastern Health Authority Employees as set out above.

Employee Name: .....

Employee Signature: ..... Date: .....





## CODE OF CONDUCT FOR EASTERN HEALTH EMPLOYEES

Policy Reference	Gov07
<del>Date of initial Board Adoption</del> <del>Date of Adoption</del>	7 May 2014
Minutes Reference	
<del>Date of Audit Committee Endorsement (if applicable)</del> <del>Review Date</del>	<del>2 May 2018</del> NA
<del>Date last reviewed by Eastern Health Authority Board of Management</del> <del>Next Review Date</del>	<del>May 2020</del> <u>November 2020</u>
Relevant Document Reference	

### 1. Introduction

This Code of Conduct ([this Code](#)) sets out the principles of good conduct and standards ~~of~~ of behaviour to be observed by all Eastern Health Authority (EHA) employees, including consultants engaged by EHA and persons working for EHA on a temporary basis. All references in this Code to 'employees' includes such persons.

The standards in this Code of Conduct are in addition to any statutory requirements of the *Local Government Act 1999* or any other relevant Act or Regulation applicable to EHA ~~Employees-employees~~ in the performance of their role and responsibilities.

Each employee of EHA is a public officer for the purposes of the *Independent Commissioner Against Corruption Act 2012*.

This Code does not exclude the operation of the *Fair Work Act 1994*, the rights of employees and their Unions to pursue industrial claims, or any relevant Awards or Enterprise Agreements made under the *Fair Work Act 1994*. This Code does not affect the jurisdiction of the Industrial Relations Commission.

### 2. Principles of this Code of Conduct

#### 2.1 Undertaking duties

EHA ~~Employees-employees~~ will observe the following principles when undertaking their duties:

- show commitment and discharge duties conscientiously and to the best of their ability
- act in a fair, honest and proper manner and according to the law

~~TRIM:-~~ D14/5685[v54]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

- act with reasonable care and be diligent in the performance of their duties
- comply with all relevant EHA policies, codes and resolutions of which they have been made aware, relevant to their particular role
- comply with all lawful and reasonable directions given by a person with authority to give such directions
- act in good faith and not for improper or ulterior motives;
- have due regard to the laws dealing with conflict of interest in relation to all their duties and behaviours and exercise the highest level of integrity expected of people employed within a public authority
- not misuse their position to gain an advantage for themselves or others or to cause detriment to [the Authority EHA](#)
- take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons, as required by the *Work Health and Safety Act 2012*
- at all times behave in a manner that maintains and enhances the image of [the Authority EHA](#) and does not reflect adversely on [the Authority EHA](#)
- be impartial in reaching decisions and accept the responsibilities associated with those decisions.

## 2.2 Relationships

When interacting with other people in the course of their duties, EHA [Employees employees](#) will:

- act in a reasonable, just and non-discriminatory manner
- seek to achieve a team approach when dealing with other employees of [EHA the Authority](#) to develop an environment of mutual respect and trust
- seek to establish a working relationship with other employees of [the Authority EHA](#) that recognises and respects the diversity of opinion and seeks to achieve the best possible outcomes for the community
- ensure that relationships with external parties do not amount to interference by improper influence, affecting judgement, decisions or actions;
- ensure that their behaviour is not and cannot be interpreted to constitute bullying or harassment
- ensure that they uphold the values of [the Authority EHA](#) in all interactions.

### 2.3 Information

When collecting, using and managing information, EHA ~~Employees-employees~~ will:

- not use information obtained as a result of their position for any purpose other than to fulfil their roles and responsibilities as EHA ~~Employeesemployees~~
- respect and maintain confidentiality, and not at any time release to any person or organisation any documents that the Board of Management ~~of EHA (the Board) of EHA~~ has resolved be kept confidential or that ~~they ought reasonably to know are confidential and/or ought to be kept confidential~~ ~~have otherwise been delivered to them with an indication that they are confidential~~
- not release information of ~~the Authority EHA~~ except for the purpose of fulfilling their role and responsibilities as an EHA ~~Employee-employee~~ or as required or authorised by law
- ensure any information provided to another person in the course of fulfilling their role and responsibilities is accurate.

### 2.4 Communication

In communicating with other people, EHA ~~Employees-employees~~ will:

- be fair and honest in their dealings with individuals and organisations on behalf of ~~the Authority EHA~~ and behave in a manner that facilitates constructive communication between ~~the Authority EHA~~ and the community
- only make comments to the media regarding ~~the Authority EHA~~ if authorised to do so by the Chief Executive Officer ~~of EHA (CEO)~~ or Board ~~of Management of EHA~~
- when making personal comments, show respect for activities and decisions of ~~the Authority EHA~~
- endeavour to ensure that their communication, written or verbal (or otherwise), is not offensive to any person or otherwise defamatory.

### 2.5 Conflict of Interest

If the ~~CEO Chief Executive Officer~~ of EHA has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties he or she:

- must disclose the interest to the Board ~~of Management of EHA~~; and
- must not, unless the Board ~~of Management EHA~~ otherwise determines, ~~during a Board of Management meeting that is open to the public~~, act in relation to the matter.

An employee of EHA (other than the ~~Chief Executive Officer CEO~~) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties:

- must disclose the interest to the ~~Chief Executive Officer~~CEO; and
- must not, unless the ~~Chief Executive Officer~~CEO otherwise determines, act in relation to the matter.

If the ~~Chief Executive Officer~~CEO determines that an employee with an ~~un disclosed~~ interest in a matter may act in relation to that matter and the employee is providing advice or making recommendations to ~~the Board of Management of EHA~~ or an EHA committee on the matter, the employee must disclose the relevant interest to ~~the Board of Management of EHA~~ or ~~the~~ EHA committee.

~~An employee (including the Chief Executive Officer) has an interest in the circumstances described for Council employees in sections 120(5) to 120(7) of the Local Government Act 1999.~~

An employee of EHA (including the CEO) has an interest in a matter for the purposes of clause 2.5 of this Code of Conduct if the employee or a person with whom the employee is closely associated would, if the employee acted in a particular manner in relation to the matter, receive or have a reasonable expectation of receiving a direct or indirect pecuniary benefit or non-pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment or a non-pecuniary detriment.

A person is closely associated with an employee of EHA:

- if that person is a body corporate of which the employee is a director or a member of the governing body; or
- if that person is a proprietary company in which the employee is a shareholder; or
- if that person is a beneficiary under a trust or an object of a discretionary trust of which the employee is a trustee; or
- if that person is a partner of the employee; or
- if that person is the employer or employee of the employee (employment with EHA or a ~~€constituent €council of EHA is to be disregarded~~); or
- if that person is a person from whom the employee has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services; or
- if that person is a relative (as defined in the Local Government Act 1999) of the employee.

## 2.6 Use of EHA Resources

EHA ~~Employees~~employees using EHA resources must do so effectively and prudently when undertaking EHA work.

EHA ~~Employees~~employees must not use EHA resources, including the services of EHA staff, for private purposes, unless legally or properly authorised to do so, with payment to ~~the Authority~~EHA being made where appropriate.

EHA ~~Employees~~employees must not use public funds or resources in a manner that is irregular or unauthorised.

~~TRIM:~~ D14/5685[v54]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

## 2.7 Gifts and benefits

An EHA ~~Employee~~ ~~employee~~ must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to:

- create a sense of obligation on the part of the employee to a person; or
- influence the employee in the performance or discharge of the employee's functions or duties.

If:

- (a) an EHA Employee receives a gift or benefit in the course of, in connection with or as a consequence of, his or her employment by ~~the Authority~~ ~~EHA~~; or
- (b) a relative of an EHA Employee receives a gift or benefit which could reasonably be considered to be in connection with or as a consequence of the EHA ~~Employee's~~ ~~employee's~~ employment by ~~the Authority~~ ~~EHA~~,

~~of an amount greater than the amount determined by the Board of Management which is \$50.00,~~ the employee must provide details of the gift or benefit to the ~~CEO~~ ~~Chief Executive Officer~~.

## 3. Complaints

A complaint about the behaviour of an EHA ~~Employee~~ ~~employee~~ under ~~the this~~ Code of ~~Conduct~~ will be investigated and appropriate action taken to ensure the complaint is addressed and to reduce the likelihood of further breaches of ~~the this~~ Code of ~~Conduct~~ occurring.

Any person who believes a breach of this Code of ~~Conduct~~ may have occurred ~~may make a complaint to is encouraged to bring details to~~ the attention of the ~~CEO~~ ~~Chief Executive Officer of the Authority~~ via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)). ~~If the complaint relates to the CEO, the complaint may be made to the Chair of the Board of EHA. A disclosure of public interest information can be made in accordance with EHA's Public Interest Disclosure Procedure.~~

## 4. Further Information

The public may inspect this Code of ~~Conduct~~ on ~~the Authority's~~ ~~EHA's~~ website ([www.eha.sa.gov.au](http://www.eha.sa.gov.au)) and at the principal office of ~~the Authority~~ ~~EHA~~ at 101 Payneham Road, St Peters.

Any queries in relation to this Code of ~~Conduct~~ should be directed to the ~~Chief Executive Officer of the Authority~~ ~~CEO~~ via telephone (8132 3600) or e-mail ([mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)).

## 5. Statement of Adoption and Review

This Code of ~~Conduct~~ was adopted on ~~2 May 2018~~ ~~[insert]~~ ~~7 May 2014~~ and will be reviewed every two years.

~~EHA~~ ~~The Authority~~ may at any time alter this Code of ~~Conduct~~, or substitute a new Code of Conduct.

I accept the terms and conditions of this Code of Conduct for Eastern Health Authority Employees as set out above.

Employee Name: .....

Employee Signature: ..... Date: .....

## 5.6 COMPLAINTS HANDLING POLICY & INTERNAL REVIEW OF A DECISION PROCEDURE

Author: Michael Livori  
Ref: AF17/49

### Summary

Eastern Health Authority (EHA) is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures as well as resolve the matter.

EHA has developed a Complaints Handling Policy to provide a fair, consistent and structured process for EHA customers if they are dissatisfied with EHA's actions, decisions or services. Lessons learnt from complaint investigations will be used to directly inform service improvements.

Additionally, an Internal Review of a Decision Procedure has been developed which sets out a process for how EHA will deal with an application seeking a review of an EHA decision.

### Report

The Complaints Handling Policy (the Policy) allows for a fair, consistent and structured process for EHA customers if they are dissatisfied with EHA's actions, decisions.

The Policy provides guidance to EHA's Board of Management, EHA Staff and the community on distinguishing between request, complaints and feedback and encourages general complaints to be resolved as quickly as possible. It provides information in relation to internal reviews, complex complaints and alternative external authorities customers may access in relation to complaints regarding EHA.

The policy is proposed to be amended to bring it in line with other EHA policies. The procedure for resolving general complaints has been amended and a procedure inserted for handling complaints relating to the code of conduct of employees, including the CEO.

References to internal review of decisions of EHA have been removed and now form part of the proposed Internal Review of a Decision Procedure.

A marked-up version of the Complaints Handling Policy highlighting the proposed changes is provided to members as attachment 1.

A "clean copy" of the Complaints Handling Policy is provided as attachment 2 for consideration and adoption.

The Internal Review of a Decision Procedure (provided as attachment 3) sets out a process for how EHA will deal with an application seeking a review of an EHA decision.

The draft Procedure sets out:

- the decisions which are subject to review and those decisions which are not subject to review;
- the method of applying for a review;
- the review process; and
- record keeping requirements.

All councils are required to have procedures for the internal review of council decisions, and it is considered best governance practice for EHA to also have such a procedure.

#### **RECOMMENDATION**

That:

1. The Complaints Handling Policy and Internal Review of a Decision Procedure report is received.
2. The Complaints Handling Policy marked attachment 2 to the Complaints Handling Policy Report and Internal Review of a Decision Procedure report dated 18 November 2020 is adopted.
3. Internal Review of a Decision Procedure marked attachment 3 to the Complaints Handling Policy Report and Internal Review of a Decision Procedure report dated 18 November 2020 is adopted.





## ~~Complaints Handling Policy~~ COMPLAINTS HANDLING POLICY

Policy Reference	GOV11
Date of Initial Board Adoption	31/ <del>08/</del> <u>August</u> 2016
Minutes Reference	<del>6:082016</del>
Date of Audit Committee Endorsement (if applicable)	25/ <del>5/</del> <u>May</u> 2016
Date last reviewed by Eastern Health Authority Board of Management	<del>N/A</del> <u>18 November 2020</u>
Relevant Document Reference	<ul style="list-style-type: none"> <li>- EHA <del>Whistleblowers Protection Policy</del> <u>Public Interest Disclosure Procedure</u> D14/10620[v3]</li> <li>- EHA Employee Code of Conduct D14/5685[v2]</li> <li>- Code of Conduct for Board Members D12/1640[v3]</li> <li>- <del>Customer Service Policy</del> D14/1003</li> <li>-</li> </ul>
Applicable Legislation	

### 1. Introduction

Eastern Health Authority (EHA) is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures as well as resolve the matter.

Emphasis will be placed on resolving complaints as quickly as possible. However, where complaints cannot be settled in the first instance EHA will ensure that they are dealt with through appropriate, more formal procedures by staff with the authority to make decisions.

### 2. Purpose

The purpose of the Complaints Handling Policy (~~the~~ this Policy) is to provide a fair, consistent and structured process for EHA customers if they are dissatisfied with EHA's actions, decisions or services. Lessons learnt from complaint investigations will be used to directly inform service improvements.

D16/6150 [v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

This Policy also aims to provide guidance ~~to the EHA Board of Management, EHA and Constituent Council Staff and the Community~~ on:

- Distinguishing between requests, complaints and feedback to EHA and giving direction on management of these issues
- How EHA assesses and processes requests and complaints including the collation of information which can be used to directly inform service improvements

### 3. Scope

This Policy applies to complaints received from ~~customers—members of the public~~ regarding EHA’s operations or service delivery ~~by employees, contractors and volunteers.~~

This Policy does not apply to:

- Complaints regarding EHA’s Board of Management. ~~These~~ will be dealt with in accordance with the Code of Conduct for EHA Board Members – Dealing with Complaints Procedure.
- Requests for a review of ~~an~~ EHA decision. ~~These~~ will be dealt with ~~under in accordance with~~ the Internal Review of EHA Decisions Procedure.
- Matters covered by the ~~Public Interest Disclosure Act 2019. Whistleblowers Protection Act 1993~~. ~~These~~ will be dealt with in accordance with the EHA’s ~~Whistleblowers Protection Policy~~ Public Interest Disclosure Procedure.
- Allegations of criminal activity. ~~These~~ must will be referred to the South Australian ~~Police~~ or other relevant authority.

### 4. Definitions

~~**Staff** means a person performing work on behalf of EHA, including the Chief Executive Officer (CEO), Team Leaders and staff employed on a full time, part time, casual or contract basis.~~

**Board** means the Board of Management of EHA.

~~**Employee** means any person performing work on behalf of EHA, either paid or unpaid, including the Chief Executive Officer (CEO), Team Leaders and staff employed on a full time, part time, casual or contract basis, work experience students, agents, consultants and contractors employed by EHA.~~

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

D16/6150

~~**Business Day** means a day when the EHA is normally open for business; that is Monday to Friday between 9:00am and 5:00pm, excluding public holidays and the period between Christmas and New Year's Day when the EHA office is closed.~~

~~**Definition of a Complaint for the purposes of this policy**, a complaint is defined as:~~

~~**Complaint** means 'An expression of dissatisfaction with a product actions of EHA or service delivered by EHA or its representatives that have failed to reach the standard stated, implied or expected. This includes complaints about a service that has been, or should have been delivered.'~~

~~Feedback can take the form of comments, both positive and negative, about services provided by EHA without necessarily forming the basis of a request for service or general complaint. EHA welcomes feedback of all types as an important way of continually monitoring its service standards.~~

~~**Request for Service** is request for an application to have EHA or its representative, take some form of action to provide or improve a EHA's service.~~

~~**EHA Board of Management** comprises of two elected members from each Constituent Council. The Board is responsible for ensuring EHA acts in accordance with its Charter established under the Local Government Act 1999.~~

~~**EHA Constituent Councils** – City of Burnside, Campbelltown City Council, the City of Norwood Payneham St Peters, the City of Prospect and The Corporation of the of Town of Walkerville.~~

## 5. Principles

EHA acknowledges that treating customers fairly requires impartiality, confidentiality and transparency at all stages of the process.

- EHA will promote to its customers the methods by which they can request services and make general complaints.
- EHA is committed to providing sufficient resources and well trained staff to manage service and complaint matters, and to review its systems for opportunities for improvement.
- Customer requests and complaints will be dealt with in accordance with this Policy in a timely manner that takes into account a response that is considerate of the matter's complexities, and takes up opportunities for improvement across the organisation where appropriate.
- In processing requests for service emphasis will be placed on:
  - Public safety and emergencies
  - Fulfilling EHA's Business Plan
  - Using EHA resources effectively

[D16/6150\[v2\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

D16/6150

Feedback can take the form of comments, both positive and negative, about services provided by EHA without necessarily forming the basis of a request for service or general complaint. EHA welcomes feedback of all types as an important way of continually monitoring its service standards.

## 6. Policy

### 6.1 General Complaints Handling

#### 6.1.1 Making a complaint

EHA welcomes complaints as a way of improving its services and programs as well as providing an opportunity to put things right.

This ~~p~~Policy will be made widely accessible to ensure that customers are fully aware of their right to complain. Information about how to lodge a complaint will be placed in a prominent position on EHA's website.

~~Except for minor level 1 responses, (See 6.1.5 Procedures for resolving complaints)~~ EHA will try to ensure that, whenever possible and appropriate, complaints will be handled independently of the original decision-maker or officer involved in the matter that is the subject of the complaint.

A person can make a complaint in a number of ways:

- Complete the appropriate form on EHA's website [www.eha.sa.gov.au](http://www.eha.sa.gov.au)
- Telephone – 8132 3600
- Fax – 8132 3623
- Email – [eha@eha.sa.gov.au](mailto:eha@eha.sa.gov.au)
- Letter – PO Box 275, Stepney SA 5069
- Visit EHA:
  - 101 Payneham Road
  - St Peters SA 5069
  - Mon – Fri 9:00am – 5:00pm

#### 6.1.2 Processing a complaint

EHA's response to general complaints received will be managed in accordance with ~~this Policy.the General Complaint Handling Procedure~~. This ensures that, whenever possible, complaints are handled independently of the original decision-maker ~~person or staff member involved in the matter~~ that is the subject of the complaint.

[D16/6150\[v2\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

D16/6150

~~Staff Employees~~ will be ~~trained to manage complaints efficiently and effectively,~~ ~~and~~ provided with a level of delegated authority appropriate for the nature of complaints they are ~~expected~~ authorised to resolve.

~~Staff Employees~~ will record all general complaints received in EHA's records management system in such a way that the information can be utilised to respond to the complaint and ~~analysis complaints by category~~ for service improvement opportunities.

### 6.1.3 Steps to resolving a complaint

The following steps will be followed ~~by staff as far as practicable~~ to ensure complaints are dealt with efficiently and effectively:

- Acknowledge complaints promptly
- Assess the complaint
- Plan the investigation where one is warranted
- Investigate the complaint
- Respond to the complainant with a clear decision
- Follow up any customer service concerns
- Consider whether there are systemic issues which need correction.

### 6.1.4 Timeframes for response

Upon receiving a ~~general~~ complaint, EHA will endeavour where practicable to respond within **ten [10] business days**, acknowledging receipt of the complaint and, where possible, resolving it at that time. Where a complaint cannot be resolved immediately the complainant will be advised of the process to be undertaken, the likely timeframe required to investigate and resolve the matter, and will be regularly updated ~~by email / letter~~ as to progress that is being made to resolve the complaint. ~~(as per General Complaint Handling Procedure).~~

### 6.1.5 Procedures for resolving general complaints

Complaints may vary greatly in their level of complexity and seriousness. Wherever possible attempts will be made to resolve a ~~complaints will be resolved~~ when first reported, but if necessary ~~officers will escalate a~~ complaint handling will be escalated as set out below.

The complaints procedure for dealing with complaints, other than complaints of a breach of the Employee Code of Conduct, procedure consists of a ~~three~~ two tiered scheme.

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

D16/6150

1. Immediate response to resolve the complaint - All ~~staff employees~~ are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level where possible.
2. Complaint escalated to a more senior officer - A complaint will be directed to the appropriate Team Leader ~~in of~~ EHA, where circumstances indicate that the complaint would be more appropriately handled at a higher level and/or where the complaint has not been able to be resolved by way of an immediate response to resolve the complaint. The Team Leader will assess the complaint and determine if it is appropriate to handle the complaint or direct the matter to the CEO. ~~This may occur, for example, where an officer has been involved in the matter that is the subject of the complaint, where the complaint is about an issue that requires a decision to be made at a more senior level.~~
3. ~~Internal review of a EHA decision (see EHA's Internal Review of a EHA Decision Policy and Procedure). This is a process established that enables EHA to reconsider all the evidence relied on to make a decision, including new evidence if relevant. This process is generally a last resort in the complaint handling process, but may also be used in situations which are not able to be resolved by other means, such as a complaint about a decision of the CEO.~~

~~EHA's detailed Complaints Procedure is available to the public. See Further Information~~

### **6.2 Complex complaints**

~~In some instances, an alternative complaint handling process must be used due to legislative restrictions. In these instances, EHA will advise the complainant of the alternative process requirements, and assist them to seek resolution of their concerns. Examples of alternative complaint handling processes include:~~

- ~~— Code of Conduct complaints about EHA Board of Management members or Employees~~
- ~~— Freedom of Information applications~~
- ~~— Internal review of a decision made by EHA on behalf of a Constituent Council is available under Section 270 of the Local Government Act 1999. This is a process established by legislation that enables a Council to reconsider all the evidence relied on to make a decision, including new evidence is relevant.~~
- ~~— Decisions made under legislation other than the Local Government Act, such as the Food Act 2001, SA Public Health Act 2011, SRF Act 1992, the Housing Improvement Act 1940 or Expiation of Offences Act 1996.~~

[D16/6150\[v2\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

D16/6150

On occasion, it may be appropriate to consider mediation. ~~This will only occur if both EHA and the complainant agree to undertake mediation, conciliation or neutral evaluation. Costs and expenses of the appointment and work of a mediator, conciliator or evaluator will be shared equally between EHA and the other party.~~

## 6.2 Procedures for resolving complaints under Code of Conduct for Employees

A complaint alleging an employee of EHA has breached the Code of Conduct for Employees (the Code of Conduct) will be referred immediately to the CEO to deal with (except where the complaint relates to the CEO).

The CEO will deal with the complaint, including if appropriate, undertake an investigation.

The procedure to be followed in dealing with a complaint under the Code of Conduct will be determined by the CEO (except where the complaint relates to the CEO).

Complaints under the Code of Conduct that relate to the CEO will be referred immediately to the Chair of the Board ~~of Management (the Board) of EHA.~~ The procedure to be followed in dealing with a complaint under the Code of Conduct in relation to the CEO will be determined by the Board.

The CEO (or Chair of the Board where the complaint relates to the CEO) will endeavour to provide information to the complainant about the progress of a complaint and the outcome of the consideration of a complaint where appropriate.

### 6.32-1 Complainant rights to external review

While EHA prefers to work with ~~its customers~~ members of the public to resolve complaints quickly and effectively, a complainant will always retain the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time.

~~**Note:** As a general rule, the Ombudsman prefers a complaint to be addressed by EHA in the first instance, unless this is not appropriate in the circumstances.~~

### 6.42-2 Unreasonable complainant conduct

All complaints received by EHA will be treated seriously and complainants will be treated courteously. However, occasionally the conduct of a complainant can be unreasonable. This may take the form of unreasonable persistence, unreasonable demands, lack of cooperation, argumentative or threatening ~~behavior~~ behaviour. What can be termed 'unreasonable' will vary depending on a number of factors and EHA aims to manage these situations in a fair and equitable manner.

Where a complainant's ~~behavior~~ behaviour consumes an unwarranted amount of EHA resources or impedes the investigation of their complaint, a decision may be

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

D16/6150

made to apply restrictions on contact ~~with-by~~ the person. Before making any decision to restrict contact, the complainant will be warned that, if the specified ~~behavior~~behaviour(s) or actions continue, restrictions may be applied.

Any decision to suspend action on a complaint will be made by the CEO or their delegate and communicated in writing to the complainant.

### **6.52.3 Using complaints to improve service**

Quality of service is an important measure of EHA's effectiveness. Learning from complaints is a powerful way of helping to develop EHA and increase trust among the people who use our services.

In addition to making changes to procedures and practices where appropriate, EHA will review and evaluate the information gained through its complaints handling procedure on an annual basis to identify systemic issues and improvements to service. Where appropriate, complainants will be provided with an explanation of changes proposed or made as a result of the investigation of their complaint.

### **6.62.4 Privacy and confidentiality**

Complainants have a right to ~~expect-request~~ that their complaint ~~will~~ be investigated in private. ~~EHA will endeavour where possible and lawful to treat complaints including the identity of complainants confidentially, to the extent possible. The identity of complainants will be made known only to those who need to know in the process of investigating and resolving the complaint. The complaint will not be revealed or made public by EHA, except where required by law.~~

~~However~~ **Note:** ~~All complaints lodged with~~ EHA ~~are-is~~ subject to the *Freedom of Information Act, 1991* and confidentiality cannot be guaranteed under the provisions of that legislation.

### **6.72.5 Remedies**

Where complaints are found to be justified EHA will, where practicable, remedy the situation in a manner which is consistent and fair for both EHA and the complainant. The solution chosen will be proportionate and appropriate to the circumstances.

As a general principle the complainant should so far as possible, be put in the position he or she would have been in ~~before the complaint, had things not gone wrong~~. This may mean providing the desired service or changing a decision. Sometimes, however, it may only be possible to offer an apology.

### **6.82.6 Alternative remedies**

[D16/6150\[v2\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

D16/6150



## Complaints Handling Policy

9

EHA may seek to use alternative dispute resolution methods such as mediation to resolve a complaint in circumstances where the CEO or ~~the Board their delegate~~ deems such a course of action appropriate and the complainant is amenable to that process.

When advising a complainant of the outcome of an investigation of a complaint, EHA will provide information about alternative remedies, including any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman.

### 7. Review and evaluation

~~This policy will be reviewed at least once every two years. However,~~ EHA may revise or review this Policy at any time (but not so as to affect any process that has already commenced). The CEO will report to ~~EHA the Board of Management~~ on the outcome of the review and make recommendations for amendment, alteration or a substitution of a new Policy if considered necessary.

### 8. Documentation

To assist in demonstrating that ~~C~~complaint ~~H~~handling processes are fair, transparent and accountable, cost effective and meet community needs, EHA will document all complaints received, the process undertaken to resolve the complaint and the outcome of the complaint.

### 9. Further Information

This policy will be available for inspection at EHA offices during normal business hours and available from EHA's website [www.eha.sa.gov.au](http://www.eha.sa.gov.au).

### 10. Statement of Adoption

The Policy was adopted by the Board ~~of Eastern Health Authority~~ on ~~31 August 2016~~ 31 August 2016.

[D16/6150\[v2\]](#)

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

[D16/6150](#)



## COMPLAINTS HANDLING POLICY

Policy Reference	GOV11
Date of Initial Board Adoption	31 August 2016
Minutes Reference	
Date of Audit Committee Endorsement (if applicable)	25 May 2016
Date last reviewed by Eastern Health Authority Board of Management	18 November 2020
Relevant Document Reference	<ul style="list-style-type: none"> <li>- EHA Public Interest Disclosure Procedure D14/10620[v3]</li> <li>- EHA Employee Code of Conduct D14/5685[v2]</li> <li>- Code of Conduct for Board Members D12/1640[v3]</li> <li>- Customer Service Policy D14/1003</li> </ul>
Applicable Legislation	

### 1. Introduction

Eastern Health Authority (EHA) is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures as well as resolve the matter.

Emphasis will be placed on resolving complaints as quickly as possible. However, where complaints cannot be settled in the first instance EHA will ensure that they are dealt with through appropriate, more formal procedures by staff with the authority to make decisions.

### 2. Purpose

The purpose of the Complaints Handling Policy (this Policy) is to provide a fair, consistent and structured process for EHA customers if they are dissatisfied with EHA's actions, decisions or services. Lessons learnt from complaint investigations will be used to directly inform service improvements.

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

This Policy also aims to provide guidance on:

- Distinguishing between requests, complaints and feedback to EHA and giving direction on management of these issues
- How EHA assesses and processes requests and complaints including the collation of information which can be used to directly inform service improvements

### **3. Scope**

This Policy applies to complaints received from members of the public regarding EHA's operations or service delivery.

This Policy does not apply to:

- Complaints regarding EHA's Board of Management. These will be dealt with in accordance with the Code of Conduct for EHA Board Members – Dealing with Complaints Procedure.
- Requests for a review of an EHA decision. These will be dealt with in accordance with the Internal Review of EHA Decisions Procedure.
- Matters covered by the *Public Interest Disclosure Act 2019*. These will be dealt with in accordance with the EHA's Public Interest Disclosure Procedure.
- Allegations of criminal activity. These will be referred to the South Australian Police or other relevant authority.

### **4. Definitions**

**Board** means the Board of Management of EHA.

**Employee** means any person performing work on behalf of EHA, either paid or unpaid, including the Chief Executive Officer (CEO).

**Complaint** means an expression of dissatisfaction with actions of EHA or service delivered by EHA that have failed to reach the standard stated, implied or expected. This includes complaints about a service that has been, or should have been delivered.

**Request for Service** is request for EHA to provide or improve a service.

### **5. Principles**

EHA acknowledges that treating customers fairly requires impartiality, confidentiality and transparency at all stages of the process.

- EHA will promote to its customers the methods by which they can request services and make general complaints.

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

## Complaints Handling Policy

3

- EHA is committed to providing sufficient resources and well trained staff to manage service and complaint matters, and to review its systems for opportunities for improvement.
- Customer requests and complaints will be dealt with in accordance with this Policy in a timely manner that takes into account a response that is considerate of the matter's complexities, and takes up opportunities for improvement across the organisation where appropriate.
- In processing requests for service emphasis will be placed on:
  - Public safety and emergencies
  - Fulfilling EHA's Business Plan
  - Using EHA resources effectively

Feedback can take the form of comments, both positive and negative, about services provided by EHA without necessarily forming the basis of a request for service or general complaint. EHA welcomes feedback of all types as an important way of continually monitoring its service standards.

### 6. Policy

#### 6.1 General Complaints Handling

##### 6.1.1 Making a complaint

EHA welcomes complaints as a way of improving its services and programs as well as providing an opportunity to put things right.

This Policy will be made widely accessible to ensure that customers are fully aware of their right to complain. Information about how to lodge a complaint will be placed in a prominent position on EHA's website.

EHA will try to ensure that, whenever possible and appropriate, complaints will be handled independently of the original decision-maker or officer involved in the matter that is the subject of the complaint.

A person can make a complaint in a number of ways:

- Complete the appropriate form on EHA's website [www.eha.sa.gov.au](http://www.eha.sa.gov.au)
- Telephone – 8132 3600
- Fax – 8132 3623
- Email – [eha@eha.sa.gov.au](mailto:eha@eha.sa.gov.au)
- Letter – PO Box 275, Stepney SA 5069
- Visit EHA:  
101 Payneham Road

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

St Peters SA 5069  
Mon – Fri 9:00am – 5:00pm

### **6.1.2 Processing a complaint**

EHA's response to general complaints received will be managed in accordance with this Policy. This ensures that, whenever possible, complaints are handled independently of the original decision-maker person that is the subject of the complaint.

Employees will be provided with a level of delegated authority appropriate for the nature of complaints they are authorised to resolve.

Employees will record all general complaints received in EHA's records management system in such a way that the information can be utilised to respond to the complaint and for service improvement opportunities.

### **6.1.3 Steps to resolving a complaint**

The following steps will be followed as far as practicable to ensure complaints are dealt with efficiently and effectively:

- Acknowledge complaints promptly
- Assess the complaint
- Plan the investigation where one is warranted
- Investigate the complaint
- Respond to the complainant with a clear decision
- Follow up any customer service concerns
- Consider whether there are systemic issues which need correction.

### **6.1.4 Timeframes for response**

Upon receiving a complaint, EHA will endeavour where practicable to respond within **ten [10] business days**, acknowledging receipt of the complaint and, where possible, resolving it at that time. Where a complaint cannot be resolved immediately the complainant will be advised of the process to be undertaken, the likely timeframe required to investigate and resolve the matter, and will be regularly updated as to progress that is being made to resolve the complaint.

### **6.1.5 Procedures for resolving general complaints**

Complaints may vary greatly in their level of complexity and seriousness. Wherever possible attempts will be made to resolve a complaint when first reported, but if necessary a complaint will be escalated as set out below.

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

The complaints procedure for dealing with complaints, other than complaints of a breach of the Employee Code of Conduct, consists of a two tiered scheme.

1. Immediate response to resolve the complaint - All employees are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level where possible.
2. Complaint escalated to a more senior officer - A complaint will be directed to the appropriate Team Leader of EHA, where circumstances indicate that the complaint would be more appropriately handled at a higher level and/or where the complaint has not been able to be resolved by way of an immediate response to resolve the complaint. The Team Leader will assess the complaint and determine if it is appropriate to handle the complaint or direct the matter to the CEO.

On occasion, it may be appropriate to consider mediation. This will only occur if both EHA and the complainant agree to undertake mediation.

## **6.2 Procedures for resolving complaints under Code of Conduct for Employees**

A complaint alleging an employee of EHA has breached the Code of Conduct for Employees (the Code of Conduct) will be referred immediately to the CEO to deal with (except where the complaint relates to the CEO).

The CEO will deal with the complaint, including if appropriate, undertake an investigation.

The procedure to be followed in dealing with a complaint under the Code of Conduct will be determined by the CEO (except where the complaint relates to the CEO).

Complaints under the Code of Conduct that relate to the CEO will be referred immediately to the Chair of the Board. The procedure to be followed in dealing with a complaint under the Code of Conduct in relation to the CEO will be determined by the Board.

The CEO (or Chair of the Board where the complaint relates to the CEO) will endeavour to provide information to the complainant about the progress of a complaint and the outcome of the consideration of a complaint where appropriate.

## **6.3 Complainant rights to external review**

While EHA prefers to work with members of the public to resolve complaints quickly and effectively, a complainant will always retain the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time.

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

#### **6.4 Unreasonable complainant conduct**

All complaints received by EHA will be treated seriously and complainants will be treated courteously. However, occasionally the conduct of a complainant can be unreasonable. This may take the form of unreasonable persistence, unreasonable demands, lack of cooperation, argumentative or threatening behaviour. What can be termed 'unreasonable' will vary depending on a number of factors and EHA aims to manage these situations in a fair and equitable manner.

Where a complainant's behaviour consumes an unwarranted amount of EHA resources or impedes the investigation of their complaint, a decision may be made to apply restrictions on contact by the person. Before making any decision to restrict contact, the complainant will be warned that, if the specified behaviour(s) or actions continue, restrictions may be applied.

Any decision to suspend action on a complaint will be made by the CEO or their delegate and communicated in writing to the complainant.

#### **6.5 Using complaints to improve service**

Quality of service is an important measure of EHA's effectiveness. Learning from complaints is a powerful way of helping to develop EHA and increase trust among the people who use our services.

In addition to making changes to procedures and practices where appropriate, EHA will review and evaluate the information gained through its complaints handling procedure on an annual basis to identify systemic issues and improvements to service. Where appropriate, complainants will be provided with an explanation of changes proposed or made as a result of the investigation of their complaint.

#### **6.6 Privacy and confidentiality**

Complainants have a right to request that their complaint be investigated in private. EHA will endeavour where possible and lawful to treat complaints including the identity of complainants confidentially.

However EHA is subject to the *Freedom of Information Act 1991* and confidentiality cannot be guaranteed under the provisions of that legislation.

#### **6.7 Remedies**

Where complaints are found to be justified EHA will, where practicable, remedy the situation in a manner which is consistent and fair for both EHA and the complainant. The solution chosen will be proportionate and appropriate to the circumstances.

D16/6150[v2]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

As a general principle the complainant should so far as possible, be put in the position he or she would have been in before the complaint. This may mean providing the desired service or changing a decision. Sometimes, however, it may only be possible to offer an apology.

#### **6.8 Alternative remedies**

EHA may seek to use alternative dispute resolution methods such as mediation to resolve a complaint in circumstances where the CEO or the Board deems such a course of action appropriate and the complainant is amenable to that process.

When advising a complainant of the outcome of an investigation of a complaint, EHA will provide information about alternative remedies, including any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman.

### **7. Review and evaluation**

EHA may revise or review this Policy at any time (but not so as to affect any process that has already commenced). The CEO will report to the Board on the outcome of the review and make recommendations for amendment, alteration or a substitution of a new Policy if considered necessary.

### **8. Documentation**

To assist in demonstrating that complaint handling processes are fair, transparent and accountable, cost effective and meet community needs, EHA will document all complaints received, the process undertaken to resolve the complaint and the outcome of the complaint.

### **9. Further Information**

This policy will be available for inspection at EHA offices during normal business hours and available from EHA's website [www.eha.sa.gov.au](http://www.eha.sa.gov.au).

### **10. Statement of Adoption**

The Policy was adopted by the Board on 31 August 2016.





## INTERNAL REVIEW OF A DECISION PROCEDURE

Procedure Reference	GOVP02
Date of initial Board Adoption	18 November 2020
Minutes Reference	
Date of Audit Committee endorsement (if applicable)	NA
Date last reviewed by Eastern Health Authority Board of Management	NA
Applicable legislation	

### 1. Introduction

The Eastern Health Authority (**EHA**) will review certain types of decision in accordance with this procedure.

This document sets out:

- the decisions which are subject to review;
- the method of applying for a review;
- the review process; and
- record keeping requirements.

#### **EHA's Commitment**

EHA is committed to making decisions that are fair, reasonable and objective.

This procedure provides a process by which members of the public with a sufficient interest in a decision of EHA can, in appropriate circumstances, as provided for in this procedure, have that decision reviewed.

This procedure is designed to ensure that:

- an unbiased review is undertaken;
- outcomes of a review are based on sound evidence;
- applicants receive information about the outcome of the review.

D20/15895

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

## 2. Scope

This procedure forms part of EHA's framework for handling complaints which includes:

- Public Interest Disclosure Procedure;
- Complaints Handling Policy;
- Customer Service Policy;
- Employee Code of Conduct; and
- Code of Conduct for EHA Board Members – dealing with complaints procedure.

## 3. Decisions Subject to Review

Decisions of:

- 3.1** EHA;
- 3.2** employees of EHA (whilst acting in their capacity as employees of EHA); and
- 3.3** other persons acting on behalf of EHA,

may be subject to review under this procedure. The nature of the review is a merits review which could lead to the original decision being affirmed, varied or revoked.

An internal review of an EHA decision will be in accordance with this procedure. All the evidence relied on to make the original decision will be reconsidered and additional available evidence if relevant will also be considered. This procedure is generally a last resort in the complaint handling process, but may also be used in situations which are not able to be resolved by other means.

## 4. Decisions Not Subject to Review

Not all actions by EHA, employees of EHA or other persons acting on behalf of EHA will be a decision for the purposes of this procedure. For example, actions or steps taken during the process of decision-making (eg requests for further information, internal consideration of a matter or referral of a matter to an external adviser) are not decisions and this procedure will not apply to such actions. A decision is made when a matter, issue or query is actually finally determined. Once a matter, issue or query is determined, the decision may be susceptible to review in accordance with this procedure.

Some decisions made by EHA, an employee of EHA or other persons on behalf of EHA are subject to review or appeal processes set out in legislation. This procedure cannot override or operate inconsistently or concurrently with these statutory processes. Consequently where legislation provides for the review of, or appeal from, a type of decision, a decision of that type will not be reviewed under this procedure. Examples include:

- review of decisions made in respect of prohibition orders made pursuant to Section 46 of the *Food Act 2001*;
- appeal against a decision to issue a notice under Section 92 of the *South Australian Public Health Act 2011*;

D20/11480

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

- review of an expiation notice under the *Expiation of Offences Act 1996*; and
- internal and external review processes under the *Freedom of Information Act 1991*.

Where legislation specifically excludes a type decision from review either expressly or by implication, this procedure cannot operate inconsistently with that legislation and accordingly this procedure will not apply. Similarly, a review under this procedure could not vary or revoke a decision which has operative effect under legislation from the time the decision is made.

Where legislation specifically provides for an internal review process, that process will apply rather than the process set out in this procedure. For example, withdrawal of an expiation notice issued by EHA under Section 16 of the *Expiation of Offences Act 1996*.

Further, EHA may refuse to consider an application for review if:

- the application is made by an employee of EHA and relates to an issue concerning his or her employment;
- the application is trivial, frivolous or vexatious; or
- the applicant does not have a sufficient interest in the matter.

Where a matter has been referred to the Local Government Association Mutual Liability Scheme (**LGAMLS**) in respect to a claim or potential claim against EHA or in response to a threat of legal action against EHA, an application for review of a decision in connection with that claim or action (including the decision to refer the matter to the LGAMLS) will not be considered under this procedure.

## 5. Applying For a Review

### 5.1 Who Can Apply?

A person with a sufficient interest in a decision of EHA, employee of EHA or persons acting on behalf of EHA, may make a written application for a review of that decision. An application for a review of a decision must be made within three months of the decision being made (unless a longer period for submitting a particular application is approved by EHA or the Chief Executive Officer of EHA (**CEO**)).

A person who is not the direct subject of a decision may have a sufficient interest in the decision to seek a review under this procedure.

### 5.2 Internal Review Contact Officer

An Internal Review Contact Officer (**IRCO**) appointed by the CEO is the initial point of contact for an applicant. The CEO may be the IRCO.

All applications for review are to be referred to the IRCO immediately.

### 5.3 Assistance with Applying for Review

It is essential that no one is excluded from lodging an application for review because of any difficulties they may have representing themselves. EHA will offer assistance

where appropriate and provide it on request, including assistance in documenting the reasons for the review in writing when circumstances warrant.

If necessary, access to interpreters, aids or advocates will be arranged to ensure that an applicant is treated equitably and has access to the review process.

#### 5.4 Form of Application

An application for review must be in writing and set out the reasons for applying for the review (that is, why the applicant believes that the decision is wrong). Although EHA can be expected to have information and material relevant to the matter under review, an application for review may also include additional, relevant information or evidence to support the application

#### 5.5 Role of IRCO

The role of the IRCO is to:

- explain the procedure to the applicant and explore any alternative options to resolve the matter, such as alternative dispute resolution prior to an application for review;
- acknowledge the receipt of an application for review;
- determine whether or not the decision is subject to review under this procedure;
- maintain a register of all applications for review received and the outcomes of the applications;
- outline the timeframes involved and the action to be taken in the first instance;
- undertake a preliminary investigation to determine what actions have already been taken to try to resolve the matter;
- keep the applicant informed of progress;
- ensure adequate records are maintained; and
- report to the Board of Management of EHA (the Board) on all applications lodged for review.
- working in conjunction with the person or body conducting the review (**the reviewer**); and
- ensuring the application is properly lodged and assigned.

Applications for a review of a decision will, where possible, be acknowledged within 10 business days and advice provided of the expected timeframe for dealing with the matter.

The applicant will, where practicable, be regularly informed of progress, either by email, letter or telephone.

## 6. Undertaking a Review

### 6.1 Reviewer

The Board will be the reviewer:

- when the decision being reviewed was made by the Board or the CEO; and
- in other circumstances as determined by the CEO.

Where the Board is not the reviewer, a reviewer will be chosen by the CEO and may include the CEO or other employee of EHA, with appropriate delegations necessary to enable him/her to affirm, vary or revoke the decision under review. The reviewer may be assisted by an external person or body in undertaking the review.

### 6.2 Role of Reviewer

The reviewer will undertake a merits review of the decision.

The reviewer should consider all materials and information which were before the original decision maker and any additional relevant material and information which has been provided or become available during the course of the review.

The reviewer will 'stand in the shoes' of the original decision-maker and determine the best or preferable decision on the basis of the relevant circumstances and available information and materials.

The reviewer will consider the application and determine whether to affirm, vary or revoke the reviewed decision.

### 6.3 Providing 'Procedural Fairness'

The reviewer will where appropriate observe the principles of procedural fairness (also called 'natural justice') when undertaking the review as provided for in this procedure.

To observe the principles of procedural fairness:

- the applicant is entitled to put forward information and materials in support of the application for review;
- the applicant will be informed of the proposed outcome of the review, have the opportunity to make submissions to the reviewer on the proposed outcome and have these submissions taken into account; and
- the reviewer must not have a bias or perceived bias in respect of undertaking the review.

### 6.4 Providing Reasons

While there is no statutory requirement to give reasons for a decision, EHA will give reasons to explain the outcome unless this is not possible, practicable or lawful.

## 7. Records Management

All documents, notes, photographs and correspondence must be retained and stored in accordance with EHA's records management protocols.

All applications must be recorded in EHA's records management system in such a way that the information can also be analysed for service improvement opportunities.

The IRCO will submit a report to the Board annually about applications for review of a decision, including:

- the number of applications for review made under this procedure;
- the types of matter to which the applications relate; and
- the outcomes of applications under this procedure.

The IRCO will also report on how the outcomes have been used to improve EHA's customer service, policies, procedures and practices.

This procedure was adopted on 18 November 2020 and will be reviewed periodically.

## 5.7 REVIEW OF THE FOOD BUSINESS INSPECTION FEE POLICY

Author: Nadia Conci  
Ref: AF17/28

### Summary

A review of the Food Business Inspection Fee Policy has been undertaken and the revised policy is submitted for adoption.

### Report

Community events enable people to connect, celebrate and commemorate culture people and place. Food often plays an important role at events.

The number of temporary events and food markets preparing and selling high risk food at EHA's Constituent Councils and non-council temporary events such as local community markets is increasing. These types of events require a food safety assessment to ensure food organisers and vendors are safely providing food to consume.

Currently, Section 4.1.4 'Inspection of Festivals, Fetes and Markets' of the Food Inspection Fee Policy (the Policy) recognises that a fee will not be charged to temporary events organised by EHA's Constituent Councils. However, the Policy recognises that a 'negotiated' inspection fee will be charged to non-council temporary events, fetes and food markets. The 'generality' of this section of the Policy often results in 'non-council' events not being charged an inspection fee.

A review of the inspection fee structure relating to non-council temporary events, fetes and markets was undertaken with an aim to balance reasonable cost recovery whilst supporting community events. The type of food vendors, the inherent risk of food sold and frequency of these non-council events and markets was considered.

A review of other council temporary event fee structures and policies was also undertaken. A number of council's apply a 50% charge of the standard inspection fee for a small business or large business depending on the number of temporary food stalls at an event. This fee is charged to the organising body / event coordinator.

The revised Policy and fee structure is in line with other council fee charges and identifies that food safety inspection fees would be charged to the organising body / event coordinator. As outlined in the fee schedule below the non-council temporary event fees will be charged to food markets, festivals, fetes, shows as follows:

Number of Stall Holders	Type of Standard Inspection Fee	Non -Council Event Inspection Fee
1-10	Small Business Inspection Fee (P1&2)	\$64.50
more than 10	Large Business Inspection Fee (P1&2)	\$160.50

The Policy also considers a list of food vendors and mobile food vending businesses that are 'exempted' from the Policy.

Minor alterations to the wording and numbering of the Policy were also required during this review.

The amended Policy (provided as attachment 1) shows marked up changes to the current policy. The alterations to the Policy are accepted in the copy provided as attachment 2.

## **RECOMMENDATION**

That:

1. The report regarding the review of the Food Business Inspection Fee Policy is received.
2. The Policy entitled Food Business Inspection Fee Policy, marked attachment 2 to this report, is adopted.





## FOOD BUSINESS INSPECTION FEE POLICY

Policy Reference	GOV04
Date of initial -Board Adoption	12 February 2003
Minutes Reference	<a href="#">xxxx7: 26022020</a>
Date of Audit Committee endorsement (if applicable)	N/A
Date last reviewed by Eastern Health Authority Board of Management	<del>26 February 2020</del> <a href="#">18 November 2020</a>
Applicable legislation	Memorandum of Understanding between The Minister for Health and Local Government Association (February 2009) Guidelines prepared by LGA for Councils - Inspection Fees, <i>Food Act 2001</i>

### 1. Purpose

The Food Business Inspection Fee Policy (Policy) outlines the circumstances that fees are applied for the inspection of food businesses as provided by Regulation 11 of the *Food Regulations 2017*.

To specify the rate at which inspection fees are charged.

### 2. Scope

This Policy applies to food businesses that are subject to inspection by authorised officers appointed by the Eastern Health Authority (EHA), an enforcement agency under the *Food Act 2001*.

### 3. Definitions

**‘Community or charitable organisation’** - any group, club or organisation that provides a community benefit and not for the personal financial gain of an individual person or group of people. Examples include Rotary, Lions, church groups, community sporting clubs and scouting groups.

D11/2059[v109]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

(To determine if an organisation fit this category, an Australian Taxation Office certificate of 'Endorsement as a Tax Concession Charity' may be requested.)

### **South Australian Food Business Risk Classification (FBRC)**

- **'Priority 1 (P1)' and 'Priority 2 (P2)'** – businesses that characteristically handle foods that support the growth of pathogenic micro-organisms and where such pathogens are present or could be present. The handling of food will involve at least one step at which control actions must be implemented to ensure safety of the food. P1 businesses are further characterised by known risk-increasing factors, such as potential for inadequate / incorrect temperature control. Due to the high risk nature of the foods and their practices regular and lengthy inspections are required.
- **'Priority 3 (P3)'** – Businesses that will characteristically handle only 'low risk' or 'medium risk' foods and will warrant an inspection.
- **'Priority 4 (P4)'** - ~~B~~ businesses that will normally handle only 'low risk' foods, because they handle pre-packaged low risk food, and hence will not warrant regular or lengthy inspections. Examples include pharmacies, video stores and newsagents.

**'Routine Inspection'** - an inspection conducted at a scheduled frequency determined by the business' priority classification and performance history utilising Environmental Health Australia's Food Safety Standard of Practice and Australian Food Safety Assessment tool.

**'Re-inspection'** – an inspection carried out as a result of non-compliance that has been identified with the *Food Act 2001* or Food Safety Standards.

**'Small Business'** - a food business employing not more than 20 full-time equivalent food handling staff.

**'Large Business'** - a food business employing more than 20 full-time equivalent food handling staff.

## **4. Principles**

Regulation 11 of the *Food Regulations 2017* provides for EHA as an enforcement agency to charge an inspection fee for the carrying out of any inspection that is required in connection with the operation or administration of the *Food Act 2001*.

Under the Regulations, the maximum fee for inspection is prescribed:

D11/2059[v109]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

- for a **small business** - \$129.00 per inspection excl GST
- in any other case - \$321.00 per inspection excl GST

Food safety inspection fees are listed under division 81 of the GST Act for exemption, and as a result GST will not apply to inspection fees set by EHA.

The Minister for Health, Department of Health (DH) and Local Government administer and enforce the *Food Act 2001*, with some functions exercised jointly and others exclusively performed by one authority or the other. The Memorandum of Understanding between the Minister for Health and Local Government Association of SA, adopted in February 2009, clarifies the allocation of responsibility for enforcement of specific areas of the Act.

EHA is responsible for ensuring compliance with Chapter 3 of the Food Standards Code (Food Safety Standards) and the safety and suitability of food sold. This is achieved by performing inspections of food businesses based on a priority classification system developed by Food Standards Australia New Zealand (FSANZ).

The priority categories of high, medium and low risk are determined by the type of food, activity of the business, method of processing and customer base. SA Health has developed the South Australian Food Business Risk Classification (FBRC) using the national food safety risk profiling framework that allocates food businesses into risk classifications, based on their likelihood of contributing to foodborne disease and the potential magnitude of that contribution.

The FBRC took effect from 1 July 2014. From this date EHA utilises SA FBRC system to determine the priority classifications and inspection frequencies for food businesses in accordance with the table below:

Classification	Frequencies (every x months)		
	Starting point (new business owners)	Maximum	Minimum
Priority 1 (P1) – Highest risk	6	3	12
Priority 2 (P2)	12	6	18
Priority 3 (P3)	18	12	24
Priority 4 (P4) – Lowest risk	Inspect on complaint or change to risk profile only	Inspect on complaint or change to risk <del>profile</del> <u>only profile only</u>	

#### 4.01 Fee Schedule

The following inspection and re-inspection fees are based on the 'priority risk rating' of a food business to recognise the inherent risk and time taken to undertake an inspection. The following fee schedule is outlined in the table below:

D11/2059[v109]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

#### 4.1.1 Routine Inspections

Classification	Small Business	Large Business
Priority 1 & 2 (P1 & P2) – Highest risk*	\$129.00	\$321.00
Priority 3 (P3)	\$85.50	\$214.00
Priority 4 (P4) – Lowest risk	No fee	No fee

\*A six month inspection frequency is applied to new P1 businesses within their first year of operation. Fees apply to these routine inspections.

#### 4.1.2 Re-inspections

Priority 1 and 2 – High risk food businesses

Re-inspection Type	Small Business	Large Business
When more than one re-inspection is required in relation to a non-conformance which has not been adequately rectified within the agreed timeframe.	\$129.00	\$321.00
Re-inspections where non compliance with an Improvement Notice served under Section 43 of the <i>Food Act 2001</i> is identified.	\$129.00	\$321.00

Priority 3 – Low risk food businesses including Community Groups, Charitable and Not for Profit Organisations

Re-inspection Type	Small Business	Large Business
When more than one re-inspection is required in relation to a non-conformance which has not been adequately rectified within the agreed timeframe.	\$88.00	\$214.00
Re-inspections where non compliance with an Improvement Notice served under Section 43 of the <i>Food Act 2001</i> is identified.	\$88.00	\$214.00

#### 4.1.3 Complaint Inspection

An inspection fee will not be imposed for an inspection carried out in response to food safety related complaints received from the public.

D11/2059[v109]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

If a routine inspection is conducted in conjunction with the investigation of a complaint, an 'inspection fee' will be issued to the food business. This fee applies to P1, P2 and P3 food businesses.

#### **4.1.4 Inspection of Festivals, Fetes and Markets**

##### **4.4.1 Constituent Council temporary events**

Temporary events inspections will not incur a charge for festivals, fetes and markets that are organised by EHA's Constituent Councils.

##### **4.4.2 Non- Constituent Council temporary events**

A food safety inspection fee to the organising body / event coordinator of food market, festivals, fetes, shows and other events to cover the assessment involved in ensuring food vendors are meeting their requirements under the *Food Act 2001* and Food Safety Standards.

At the discretion of the Authorised Officer, with consideration of the SA food risk classification system an appropriate inspection fee will be ~~be negotiated~~ considered in the application of fees to the ~~with the~~ organising body/ event coordinator with aim to balance reasonable cost recovery with supporting community event. ~~host of non council events. Such a fee will be applied in lieu of inspection fees for individual stall holders. The negotiated fee will reflect the cost of the inspections but will not exceed the maximum fee chargeable multiplied by the number of stall holders.~~

Food markets, festivals, fetes, shows and other events with mobile food vendors and mobile food vending businesses will be 50% charge of the standard inspection fee for a small business or large business depending on the number of temporary food stalls at an event as follows:

<b><u>Number of Stall Holders</u></b>	<b><u>Type of Standard Inspection Fee</u></b>	<b><u>Non -Council Event Inspection Fee</u></b>
<u>1-10</u>	<u>Small Business Inspection Fee (P1&amp;2)</u>	<u>\$64.50</u>
<u>more than 10</u>	<u>Large Business Inspection Fee (P1&amp;2)</u>	<u>\$160.50</u>

Where markets occur on a frequent basis more than one inspection will be required throughout the year. The frequency of the inspection is dependent on the type and transient nature of the food vendors and foods being sold. A charge will apply to these inspections.

~~and inspection fee applied.~~

##### **4.4.3 Exclusion of inspection fees at non-Constituent Council temporary events**

The following temporary food stall/vendor and mobile food vehicles will be excluded when determining an inspection fee charge.

- community or charitable organisations
- sale of 'low risk foods' that are pre-packaged, shelf stable and appropriately labelled and do not require specific storage requirements such as temperature control
- a mobile food vehicle notified within EHA and are inspected as part of a routine premises inspection and subject to an inspection fee during that inspection.

If all food vendors at a temporary event are within one of these above-mentioned categories food inspection fees will not apply.

#### **4.52 Inspection of Businesses with Food Safety Programs**

An inspection fee will apply for food businesses that have formal audited food safety programs in place. Please refer to the Food Business Audit Fee Policy.

#### **4.63 Exemptions**

##### **4.63.1 Community and Charitable Organisations**

Routine inspection fees will not be imposed upon community and charitable organisations.

Fees associated to re-inspections do apply. Refer to 4.1-2 of the Policy.

##### **4.63.2 Schools and Educational Institutions**

Inspection fees will not be imposed for inspections of the canteen or out of school hours care service (OSHC) in schools and educational institutions unless the operator of the canteen / OSHC operates the service as a commercial concern for profit.

Fees associated to re-inspections do apply. Refer to 4.1-2 of the Policy.

##### **4.63.3 Nominal Risk Businesses**

Inspection fees will not be imposed upon nominal P4 risk businesses.

##### **4.63.4 Mobile Food Vans**

D11/2059[v109]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

Inspection fees will not be imposed upon mobile food vans that can display evidence of having completed notification with an alternate local council.

**5. Review of the Food Inspection Fee Policy**

Every 24 months or as needed.

**6. Statement of Adoption**

This Policy was adopted by the Board of the Eastern Health Authority on 12 February 2003.



## FOOD BUSINESS INSPECTION FEE POLICY

Policy Reference	GOV04
Date of initial Board Adoption	12 February 2003
Minutes Reference	xxxx
Date of Audit Committee endorsement (if applicable)	N/A
Date last reviewed by Eastern Health Authority Board of Management	18 November 2020
Applicable legislation	Memorandum of Understanding between The Minister for Health and Local Government Association (February 2009) Guidelines prepared by LGA for Councils - Inspection Fees, <i>Food Act 2001</i>

### 1. Purpose

The Food Business Inspection Fee Policy (Policy) outlines the circumstances that fees are applied for the inspection of food businesses as provided by Regulation 11 of the *Food Regulations 2017*.

To specify the rate at which inspection fees are charged.

### 2. Scope

This Policy applies to food businesses that are subject to inspection by authorised officers appointed by the Eastern Health Authority (EHA), an enforcement agency under the *Food Act 2001*.

### 3. Definitions

**‘Community or charitable organisation’** - any group, club or organisation that provides a community benefit and not for the personal financial gain of an individual person or group of people. Examples include Rotary, Lions, church groups, community sporting clubs and scouting groups.

D11/2059[v10]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.



(To determine if an organisation fit this category, an Australian Taxation Office certificate of 'Endorsement as a Tax Concession Charity' may be requested.)

### **South Australian Food Business Risk Classification (FBRC)**

- **'Priority 1 (P1)' and 'Priority 2 (P2)'** – businesses that characteristically handle foods that support the growth of pathogenic micro-organisms and where such pathogens are present or could be present. The handling of food will involve at least one step at which control actions must be implemented to ensure safety of the food. P1 businesses are further characterised by known risk-increasing factors, such as potential for inadequate / incorrect temperature control. Due to the high risk nature of the foods and their practices regular and lengthy inspections are required.
- **'Priority 3 (P3)'** – Businesses that will characteristically handle only 'low risk' or 'medium risk' foods and will warrant an inspection.
- **'Priority 4 (P4)'** - Businesses that will normally handle only 'low risk' foods, because they handle pre-packaged low risk food, and hence will not warrant regular or lengthy inspections. Examples include pharmacies, video stores and newsagents.

**'Routine Inspection'** - an inspection conducted at a scheduled frequency determined by the business' priority classification and performance history utilising Environmental Health Australia's Food Safety Standard of Practice and Australian Food Safety Assessment tool.

**'Re-inspection'** – an inspection carried out as a result of non-compliance that has been identified with the *Food Act 2001* or Food Safety Standards.

**'Small Business'** - a food business employing not more than 20 full-time equivalent food handling staff.

**'Large Business'** - a food business employing more than 20 full-time equivalent food handling staff.

## **4. Principles**

Regulation 11 of the *Food Regulations 2017* provides for EHA as an enforcement agency to charge an inspection fee for the carrying out of any inspection that is required in connection with the operation or administration of the *Food Act 2001*.

Under the Regulations, the maximum fee for inspection is prescribed:

- for a **small business** - \$129.00 per inspection excl GST
- in any other case - \$321.00 per inspection excl GST

D11/2059[v10]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

Food safety inspection fees are listed under division 81 of the GST Act for exemption, and as a result GST will not apply to inspection fees set by EHA.

The Minister for Health, Department of Health (DH) and Local Government administer and enforce the *Food Act 2001*, with some functions exercised jointly and others exclusively performed by one authority or the other. The Memorandum of Understanding between the Minister for Health and Local Government Association of SA, adopted in February 2009, clarifies the allocation of responsibility for enforcement of specific areas of the Act.

EHA is responsible for ensuring compliance with Chapter 3 of the Food Standards Code (Food Safety Standards) and the safety and suitability of food sold. This is achieved by performing inspections of food businesses based on a priority classification system developed by Food Standards Australia New Zealand (FSANZ).

The priority categories of high, medium and low risk are determined by the type of food, activity of the business, method of processing and customer base. SA Health has developed the South Australian Food Business Risk Classification (FBRC) using the national food safety risk profiling framework that allocates food businesses into risk classifications, based on their likelihood of contributing to foodborne disease and the potential magnitude of that contribution.

The FBRC took effect from 1 July 2014. From this date EHA utilises SA FBRC system to determine the priority classifications and inspection frequencies for food businesses in accordance with the table below:

Classification	Frequencies (every x months)		
	Starting point (new business owners)	Maximum	Minimum
Priority 1 (P1) – Highest risk	6	3	12
Priority 2 (P2)	12	6	18
Priority 3 (P3)	18	12	24
Priority 4 (P4) – Lowest risk	Inspect on complaint or change to risk profile only	Inspect on complaint or change to risk profile only	

#### 4.0 Fee Schedule

The following inspection and re-inspection fees are based on the 'priority risk rating' of a food business to recognise the inherent risk and time taken to undertake an inspection. The following fee schedule is outlined in the table below:

##### 4.1. Routine Inspections

D11/2059[v10]

This is a version controlled document. The electronic version is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

Classification	Small Business	Large Business
Priority 1 & 2 (P1 & P2) – Highest risk*	\$129.00	\$321.00
Priority 3 (P3)	\$85.50	\$214.00
Priority 4 (P4) – Lowest risk	No fee	No fee

\*A six month inspection frequency is applied to new P1 businesses within their first year of operation. Fees apply to these routine inspections.

#### 4.2 Re-inspections

Priority 1 and 2 – High risk food businesses

Re-inspection Type	Small Business	Large Business
When more than one re-inspection is required in relation to a non-conformance which has not been adequately rectified within the agreed timeframe.	\$129.00	\$321.00
Re-inspections where non compliance with an Improvement Notice served under Section 43 of the <i>Food Act 2001</i> is identified.	\$129.00	\$321.00

Priority 3 – Low risk food businesses including Community Groups, Charitable and Not for Profit Organisations

Re-inspection Type	Small Business	Large Business
When more than one re-inspection is required in relation to a non-conformance which has not been adequately rectified within the agreed timeframe.	\$88.00	\$214.00
Re-inspections where non compliance with an Improvement Notice served under Section 43 of the <i>Food Act 2001</i> is identified.	\$88.00	\$214.00

#### 4.3 Complaint Inspection

An inspection fee will not be imposed for an inspection carried out in response to food safety related complaints received from the public.

If a routine inspection is conducted in conjunction with the investigation of a complaint, an 'inspection fee' will be issued to the food business. This fee applies to P1, P2 and P3 food businesses.

#### 4.4 Inspection of Festivals, Fetes and Markets

##### 4.4.1 Constituent Council temporary events

Temporary events inspections will not incur a charge for festivals, fetes and markets that are organised by EHA's Constituent Councils.

##### 4.4.2 Non- Constituent Council temporary events

A food safety inspection fee to the organising body / event coordinator of food market, festivals, fetes, shows and other events to cover the assessment involved in ensuring food vendors are meeting their requirements under the *Food Act 2001* and Food Safety Standards.

At the discretion of the Authorised Officer, with consideration of the SA food risk classification system an appropriate inspection fee will be considered in the application of fees to the organising body/ event coordinator with aim to balance reasonable cost recovery with supporting community event.

Food markets, festivals, fetes, shows and other events with mobile food vendors and mobile food vending businesses will be 50% charge of the standard inspection fee for a small business or large business depending on the number of temporary food stalls at an event as follows:

Number of Stall Holders	Type of Standard Inspection Fee	Non -Council Event Inspection Fee
1-10	Small Business Inspection Fee (P1&2)	\$64.50
more than 10	Large Business Inspection Fee (P1&2)	\$160.50

Where markets occur on a frequent basis more than one inspection will be required throughout the year. The frequency of the inspection is dependent on the type and transient nature of the food vendors and foods being sold. A charge will apply to these inspections.

##### 4.4.3 Exclusion of inspection fees at non-Constituent Council temporary events

The following temporary food stall/vendor and mobile food vehicles will be excluded when determining an inspection fee charge.

- community or charitable organisations
- sale of 'low risk foods' that are pre-packaged, shelf stable and appropriately labelled and do not require specific storage requirements such as temperature control
- a mobile food vehicle notified within EHA and are inspected as part of a routine premises inspection and subject to an inspection fee during that inspection.

If all food vendors at a temporary event are within one of these above-mentioned categories food inspection fees will not apply.

#### **4.5 Inspection of Businesses with Food Safety Programs**

An inspection fee will apply for food businesses that have formal audited food safety programs in place. Please refer to the Food Business Audit Fee Policy.

#### **4.6 Exemptions**

##### **4.6.1 Community and Charitable Organisations**

Routine inspection fees will not be imposed upon community and charitable organisations.

Fees associated to re-inspections do apply. Refer to 4.2 of the Policy.

##### **4.6.2 Schools and Educational Institutions**

Inspection fees will not be imposed for inspections of the canteen or out of school hours care service (OSHC) in schools and educational institutions unless the operator of the canteen / OSHC operates the service as a commercial concern for profit.

Fees associated to re-inspections do apply. Refer to 4.2 of the Policy.

##### **4.6.3 Nominal Risk Businesses**

Inspection fees will not be imposed upon nominal P4 risk businesses.

##### **4.6.4 Mobile Food Vans**

Inspection fees will not be imposed upon mobile food vans that can display evidence of having completed notification with an alternate local council.

### **5. Review of the Food Inspection Fee Policy**

Every 24 months or as needed.

### **6. Statement of Adoption**

This Policy was adopted by the Board of the Eastern Health Authority on 12 February 2003.

## 6.1 ENVIRONMENTAL HEALTH ACTIVITY REPORT

### 1.0 Food Safety

#### 1.1 Food Complaints

For the reporting period 1 September 2020 to 31 October 2020 the Eastern Health Authority received 16 complaints that were investigated under the *Food Act 2001*. The complaints are shown by category in Graph 1 and by respective council area in Table 1.

Graph 1

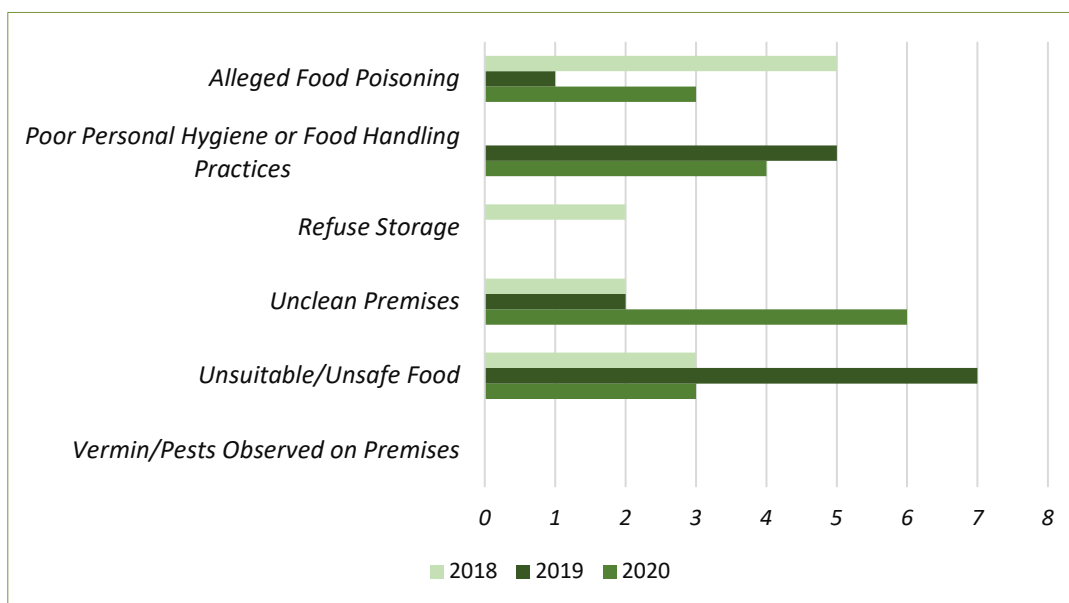


Table 1: Food complaints received from 1 September 2020 to 31 October 2020 by council area.

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Alleged Food Poisoning</b>	0	2	1	0	0	<b>3</b>
<b>Poor personal hygiene or food handling practices</b>	2	0	1	1	0	<b>4</b>
<b>Refuse Storage</b>	0	0	0	0	0	<b>0</b>
<b>Unclean premises</b>	3	1	1	1	0	<b>6</b>
<b>Unsuitable/unsafe food</b>	1	2	0	1	0	<b>3</b>
<b>Vermin/pests observed on premises</b>	0	0	0	0	0	<b>0</b>
<b>Total</b>	<b>5</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>16</b>

Graph 2

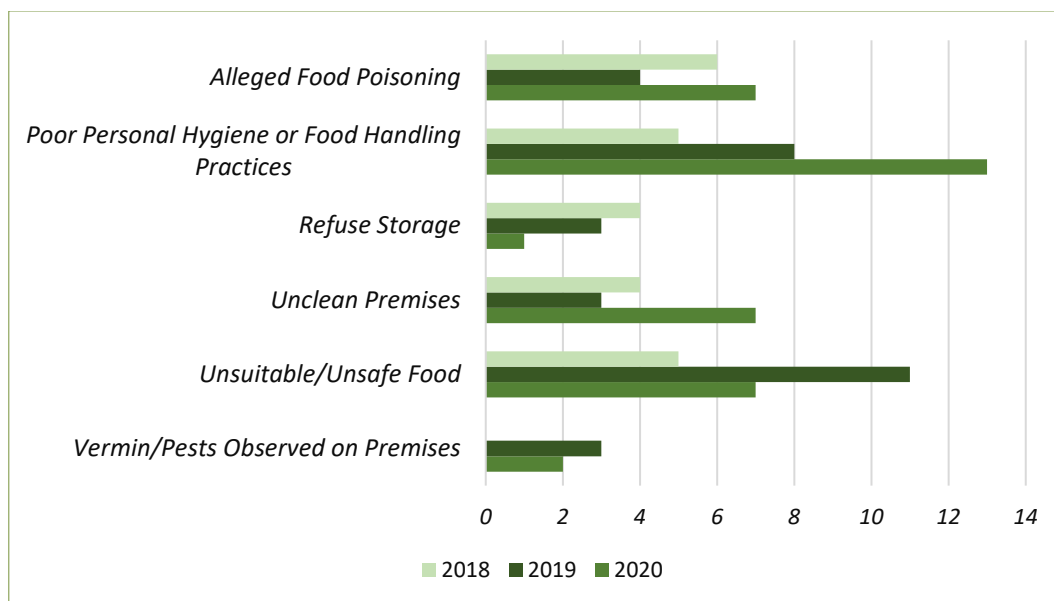


Table 2: Food complaints received for the financial year-to-date

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Alleged Food Poisoning</b>	1	2	4	0	0	<b>7</b>
<b>Poor personal hygiene or food handling practices</b>	5	1	5	2	0	<b>13</b>
<b>Refuse Storage</b>	0	0	1	0	0	<b>1</b>
<b>Unclean premises</b>	3	1	1	2	0	<b>7</b>
<b>Unsuitable/unsafe food</b>	1	4	0	2	0	<b>7</b>
<b>Vermin/pests observed on premises</b>	0	0	1	1	0	<b>2</b>
<b>Total</b>	<b>10</b>	<b>8</b>	<b>12</b>	<b>7</b>	<b>0</b>	<b>37</b>

### 1.2 Food Premises Inspections

Environmental Health Officers undertook 139 routine inspections of food businesses this reporting period. An additional 114 follow-up inspections were required to ensure non-compliance with the Food Safety Standards were appropriately addressed.

Graph 3

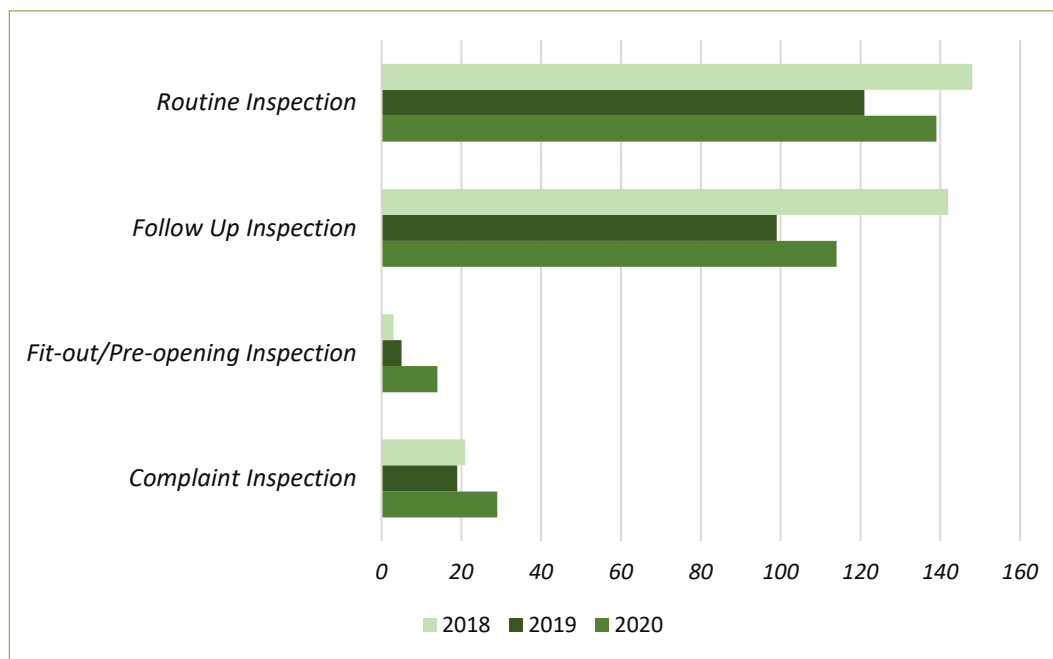


Table 3: Food premises inspections from 1 September 2020 to 31 October 2020

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Routine inspection</b>	38	18	64	11	8	<b>139</b>
<b>Follow up inspection</b>	20	23	48	20	3	<b>114</b>
<b>Fit-out/Pre-opening inspection</b>	5	3	4	2	0	<b>14</b>
<b>Complaint inspection</b>	16	5	4	4	0	<b>29</b>
<b>Total</b>	<b>79</b>	<b>49</b>	<b>120</b>	<b>37</b>	<b>11</b>	<b>296</b>



Graph 4

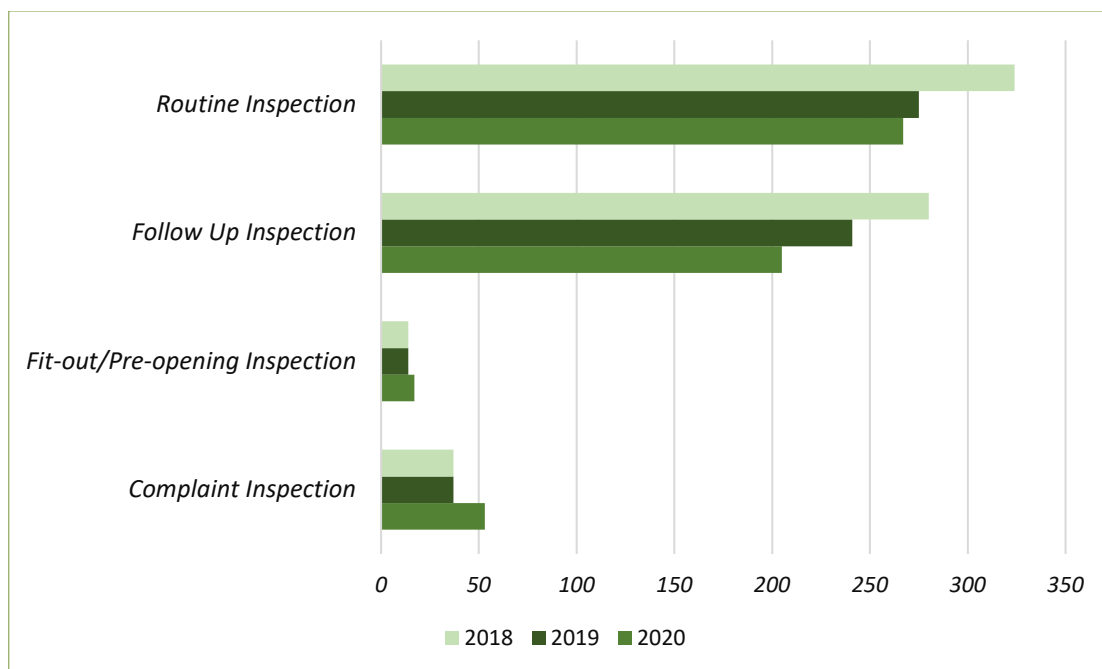


Table 4: Food premises inspections for the financial year-to-date

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Routine inspection</b>	56	48	126	26	11	<b>267</b>
<b>Follow up inspection</b>	26	43	97	30	9	<b>205</b>
<b>Fit-out/Pre-opening inspection</b>	4	4	6	3	0	<b>17</b>
<b>Complaint inspection</b>	21	9	14	9	0	<b>53</b>
<b>Total</b>	<b>107</b>	<b>104</b>	<b>243</b>	<b>68</b>	<b>20</b>	<b>542</b>

### 1.3 Non-Compliance with Food Safety Standards

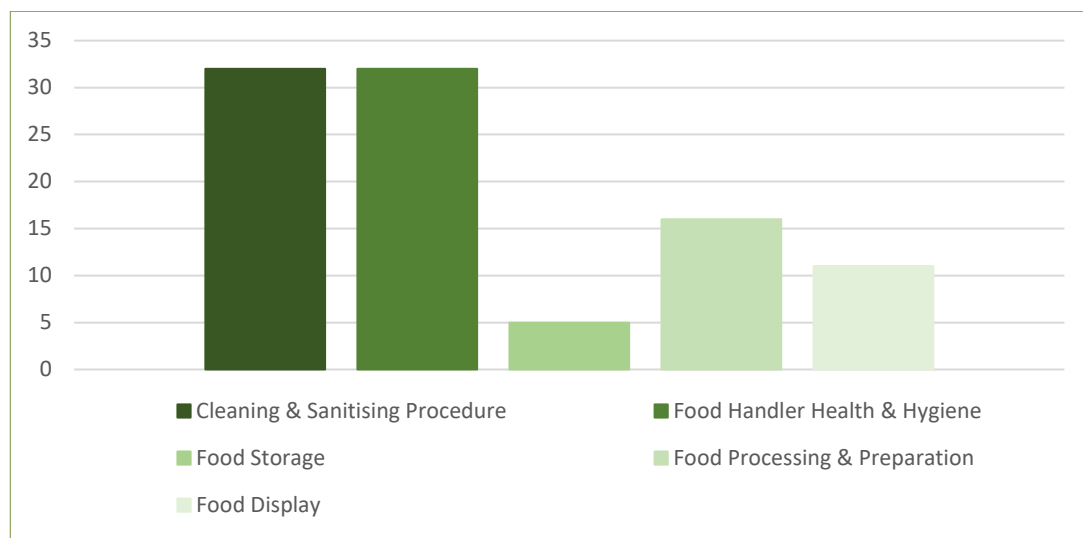
The SA Health Food Safety Rating Scheme Checklist is used to assess business compliance with food safety standards at routine inspections. Non-compliances against the Standards can range from Minor, Major to Serious. This is dependent on the risk and seriousness of the breach. EHO’s identified a total of 1,033 non-compliances with the Food Safety Standards.

As shown in Table 5 the majority of non-compliances were minor in nature. Poor food handler health and hygiene and inadequate cleaning and sanitising practices accounted for 67% of the serious non-compliances identified during routine inspections (Table 5 and Graph 5).

Table 5: the type and number of non-compliances identified at routine inspections during the reporting period.

Type of non-compliance	Number of non-compliances
Minor	772
Major	165
Serious	96

Graph 5: the type and frequency of serious non-compliances identified at routine inspections during the reporting period.



During the reporting period, nine Improvement Notices, two final warning and two Prohibition Order were issued. No Expiations Notices were issued. The majority of food businesses requiring legal action were P2 high risk businesses (Table 8).

Table 6: Legal action taken from 1 September 2020 to 31 October 2020

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
Warning Letters	0	0	1	1	0	2
Improvement Notices	3	0	5	1	0	9
Expiation Notices	0	0	0	0	0	0
Prohibition Order	0	1	1	0	0	2
<b>Total</b>	<b>3</b>	<b>1</b>	<b>7</b>	<b>2</b>	<b>0</b>	<b>13</b>

Table 7: Legal action for financial year-to-date classification

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
Warning Letters	0	1	2	1	0	4
Improvement Notices	3	1	12	3	0	19
Expiation Notices	0	0	0	0	0	0
Prohibition Order	0	1	1	1	0	3
<b>Total</b>	<b>3</b>	<b>3</b>	<b>15</b>	<b>5</b>	<b>0</b>	<b>26</b>

Table 8: Legal action taken per food business risk

	P1	P2	P3
Warning	1	1	0
Improvement Notice	4	5	0
Expiation Notice	0	0	0
Prohibition	1	1	0

## 1.4 Audits of Businesses that Serve Vulnerable Populations

During the reporting period, nine businesses within the Constituent Council boundaries and six businesses in other council areas were audited under Standard 3.3.1 of the *Australia New Zealand Food Standards Code*. No follow-up audits were performed.

Table 9: Food audits for the period from 1 September 2020 to 31 October 2020

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Out of Council	Total
<b>Audits</b>	1	3	3	2	0	6	15
<b>Follow-up audits</b>	0	0	0	0	0	0	0
<b>Total</b>	1	3	3	2	0	6	15

Table 10: Food audits conducted for financial year-to-date

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Out of Council	Total
<b>Audits</b>	2	4	4	5	0	8	23
<b>Follow-up audits</b>	0	0	0	0	0	0	0
<b>Total</b>	2	4	4	5	0	8	23

## 2.0 Public Health

### 2.1 Public Health Complaints

For the reporting period 1 September 2020 to 31 October 2020, Eastern Health Authority received 31 public and environmental health related complaints. The complaints for the reporting period are shown by category in Graph 6 and by respective council area in Table 11.

Graph 6

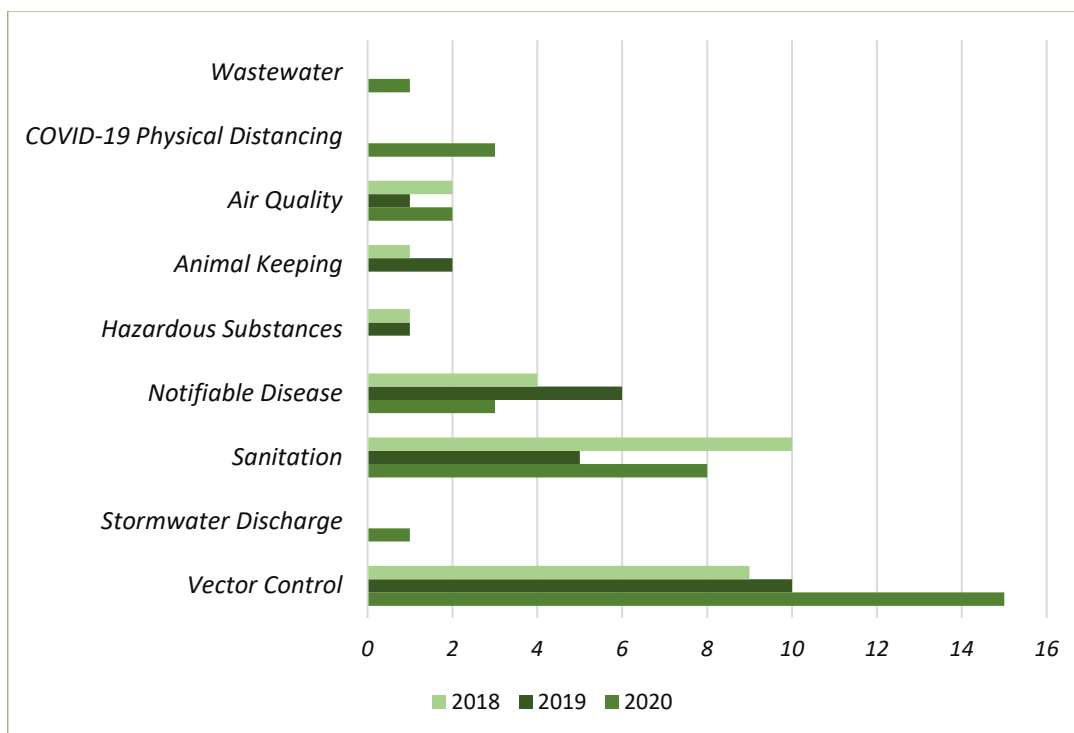


Table 11: Public and environmental health complaints 1 September 2020 to 31 October by council area

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Air Quality</b>	1	0	1	0	0	<b>2</b>
<b>Animal Keeping</b>	0	0	0	0	0	<b>0</b>
<b>Hazardous Substances</b>	0	0	0	0	0	<b>0</b>
<b>Notifiable Disease</b>	2	1	0	0	0	<b>3</b>
<b>Sanitation</b>	3	2	1	0	2	<b>8</b>
<b>Stormwater discharge</b>	0	1	0	0	0	<b>1</b>
<b>Vector Control</b>	0	4	6	4	1	<b>15</b>
<b>COVID-19</b>	0	0	2	1	0	<b>3</b>
<b>Wastewater</b>	1	0	0	0	0	<b>1</b>
<b>Total</b>	<b>7</b>	<b>8</b>	<b>10</b>	<b>5</b>	<b>3</b>	<b>33</b>

Graph 7

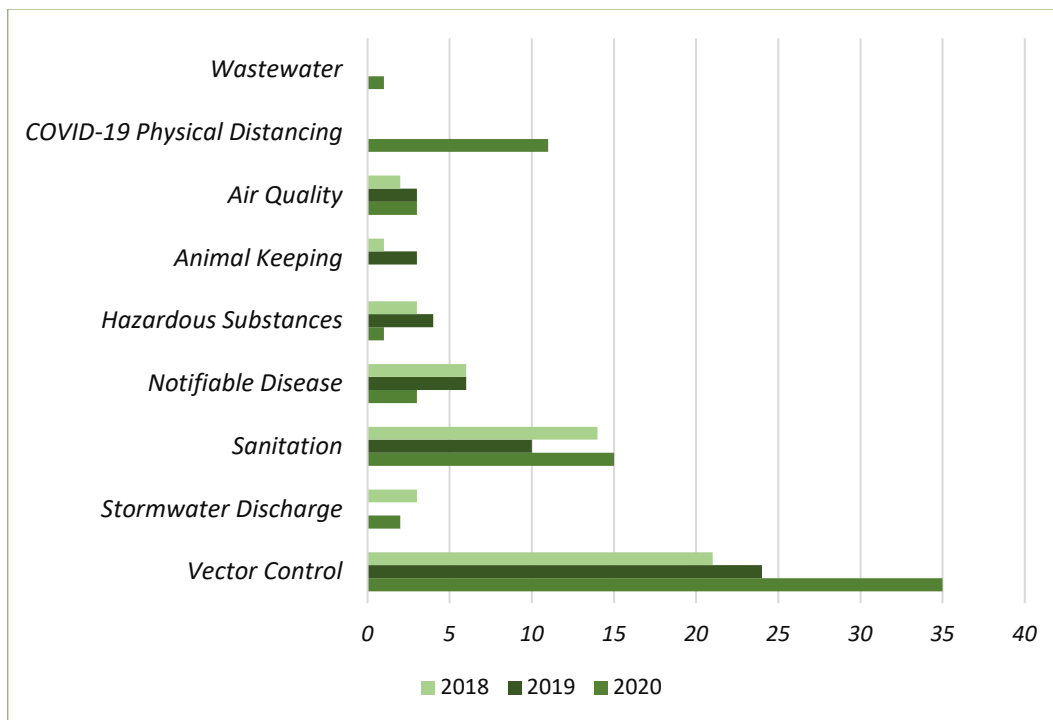


Table 12: Public and environmental health complaints for financial year-to-date

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Air Quality</b>	1	1	1	0	0	<b>3</b>
<b>Animal Keeping</b>	0	0	0	0	0	<b>0</b>
<b>Hazardous Substances</b>	0	0	1	0	0	<b>1</b>
<b>Notifiable Disease</b>	2	1	0	0	0	<b>3</b>
<b>Sanitation</b>	4	3	4	0	4	<b>15</b>
<b>Stormwater discharge</b>	1	1	0	0	0	<b>2</b>
<b>Vector Control</b>	3	10	13	7	2	<b>35</b>
<b>COVID-19</b>	0	0	8	2	1	<b>11</b>
<b>Wastewater</b>	1	0	0	0	0	<b>1</b>
<b>Total</b>	<b>12</b>	<b>16</b>	<b>27</b>	<b>9</b>	<b>7</b>	<b>71</b>

## 2.2 Cooling Towers & Warm Water Systems

During the reporting period six cooling tower and warm water system inspections were conducted at two sites.

No complaints were received during the reporting period.

Table 13: Cooling Tower and Warm Water System Inspections conducted from 1 September 2020 to 31 October 2020

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Routine inspections</b>	0	0	6	0	0	6
<b>Follow-up inspections</b>	0	0	1	0	0	1
<b><i>Legionella</i> Detections during sampling</b>	0	0	2	0	0	2
<b>Total</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>9</b>

Table 14: Cooling Tower and Warm Water System Inspections for financial year-to-date

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Routine inspections</b>	0	0	6	0	0	6
<b>Follow-up inspections</b>	0	0	1	0	0	1
<b><i>Legionella</i> Detections during sampling</b>	0	0	2	0	0	2
<b>Total</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>9</b>

### 2.3 Public Swimming Pools and Spas

During the reporting period 11 swimming and spa pool inspections were conducted at six sites. An additional two follow up inspections were completed at two separate sites.

No complaints were received during the reporting period.

Table 15: Swimming and spa pool inspections conducted between 1 September 2020 to 31 October 2020

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Routine inspections</b>	3	0	5	0	3	11
<b>Follow-up inspections</b>	1	0	0	0	1	2
<b>Complaint inspections</b>	0	0	0	0	0	0
<b>Total</b>	<b>4</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>4</b>	<b>13</b>

Table 16: Swimming and spa pool inspections conducted for financial year-to-date

	Burnside	Campbelltown	NPSP	Prospect	Walkerville	Total
<b>Routine inspections</b>	3	0	5	0	3	11
<b>Follow-up inspections</b>	1	0	0	0	1	2
<b>Complaint inspections</b>	0	0	0	0	0	0
<b>Total</b>	<b>4</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>4</b>	<b>13</b>



## **2.4 Wastewater**

During the reporting period waste control system applications are assessed in accordance with the requirements of the *SA Public Health (Wastewater) Regulations 2013*.

- Number of applications received: three
  - two aerobic applications with surface irrigation
  - one aerobic application with an evapotranspiration absorption bed
- Three applications pending decision
- Two inspections determine progress of approved wastewater works
- No complaints were received.

## **3.0 Health Care and Community Services - Supported Residential Facilities**

For the reporting period 1 September 2020 to 31 October 2020 three dual licence and two pension only facilities were licenced by Eastern Health Authority under the *Supported Residential Facilities Act 1992*.

No unannounced routine audits or follow-up inspections were scheduled during the reporting period.

One complaint was received during September 2020 and an investigation undertaken during. No further action was required.

No applications for Manager/Acting Manager Approval or licence transfer was received during the reporting period.

## **RECOMMENDATION**

That:

The Environmental Health Activity Report is received.

## 6.2 IMMUNISATION

### 2020 School Immunisation Program (SIP)

During September 2020 to October 2020, 19 school immunisation visits were completed and a total of 1,883 vaccines were administered.

A total of 9,726 vaccines have been administered for the school year from January to October 2020 which is a decrease of 4,476 (-31%) when compared to the same period in 2019. This decrease is due to the Year 11 catch up program being completed in 2019 and Unley schools not included in the SIP program for 2020.

Table 1: School Vaccinations for Calendar Year to Date – January to October 2020

Council	Human Papillovavirus	Diphtheria Tetanus and Pertussis	Meningococcal B	Meningococcal ACWY	Total
Burnside	892	473	1,059	682	3,106
Campbelltown	596	479	869	459	2,403
NPSP	1,062	539	1,040	555	3,196
Prospect	193	106	196	104	599
Walkerville	141	71	132	78	422
<b>Total</b>	<b>2,884</b>	<b>1,668</b>	<b>3,296</b>	<b>1,878</b>	<b>9,726</b>

Confirmation has been received that there will be no changes made to the School Immunisation Program for 2021.

The program will offer the following vaccinations which are the same as 2020:

#### **Year 8 Students:**

Two visits  
Two doses of Gardasil 9 (6-month interval)  
Boostrix – 1 dose

#### **Year 10 Students:**

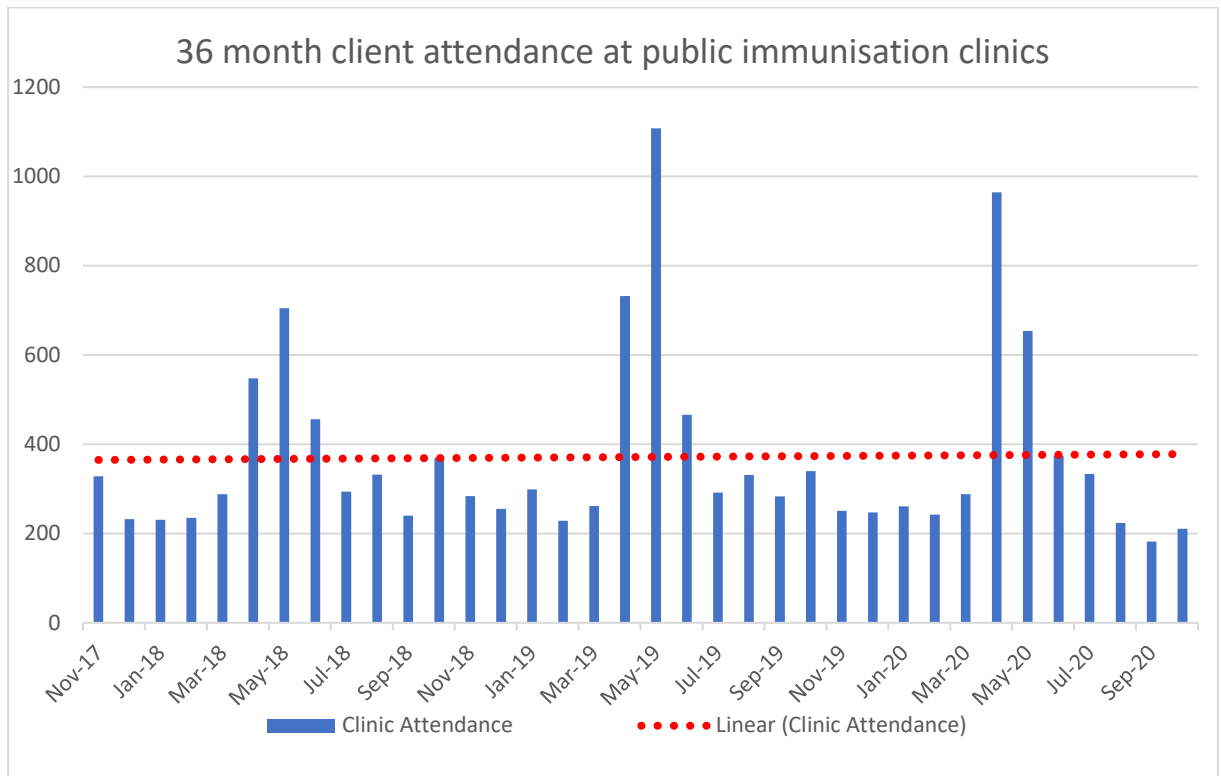
Two visits  
Two doses of Bexsero (2-month interval)  
One dose of Nimenrix

**Public Clinics**

During the period of review 393 clients received 909 vaccines at EHA’s public immunisation clinics. This is a decrease of 230 (-36%) clients and 340 (-27%) vaccines in comparison to the same period in 2019.

This decrease is due to the ongoing COVID-19 restrictions EHA have in place, with appointment-based clinics continuing to be managed to ensure all necessary requirements are being met. This has had a negative impact on the number of clients that can be serviced when comparing clinic numbers during the same review period in 2019.

Graph 2: Client Numbers at public clinics – 36-month comparison



To assist with ensuing COVID-19 restrictions are being managed all public clinics are currently held at the EHA office at the St Peters Library Complex. It is expected that all clinics will resume at other constituent council venues in the New Year, with our clinic timetable for 2021 currently being finalised.

The table over the page provides details of the council of origin of people attending the clinics at the St Peters Library Complex during the reporting period and year to date.

Table 3: Combined Clinic breakdown for September 2020 – October 2020

The following Table provides details on the numbers of clients in attendance and the vaccines administered at all of the public clinics based on the clients council of origin														
	BURNSIDE		CAMP		NPS		PROSPECT		WALK		OTHER		TOTALS	
	Clients	Vaccines	Clients	Vaccines	Clients	Vaccines	Clients	Vaccines	Clients	Vaccines	Clients	Vaccines	Clients	Vaccines
<b>Sept-Oct 2020</b>	<b>82</b>	<b>184</b>	<b>134</b>	<b>317</b>	<b>109</b>	<b>257</b>	<b>30</b>	<b>73</b>	<b>23</b>	<b>49</b>	<b>15</b>	<b>29</b>	<b>393</b>	<b>909</b>
<b>Year to date</b>	<b>222</b>	<b>480</b>	<b>331</b>	<b>736</b>	<b>237</b>	<b>512</b>	<b>67</b>	<b>153</b>	<b>55</b>	<b>123</b>	<b>38</b>	<b>76</b>	<b>950</b>	<b>2080</b>

**RECOMMENDATION**

That:

The Immunisation Services Report is received.