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| Trust member conduct and managing poor behaviour |
| Guidance for Class B cemetery trusts |
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# Introduction

This fact sheet has been developed to assist Class B cemetery trusts manage inappropriate or poor trust member behaviour and the conduct of trust employees.

# Trust member conduct

Appointed members of cemetery trusts are public board directors who are classified as ‘public officials’ under the *Public Administration Act 2004* (the Act)*.* As public officials, trust members are required to uphold the public sector values as outlined in s. 7 of the Act, and the *Code of Conduct for Directors of Victorian Public Entities* (the Code of Conduct) issued by the Victorian Public Sector Commission. The Code of Conduct, which includes information about the public sector values, is available on the [Victorian Public Sector Commission website](https://vpsc.vic.gov.au/resources/code-of-conduct-for-directors) <https://vpsc.vic.gov.au/resources/code-of-conduct-for-directors>.

# Managing poor trust member behaviour

The Victorian cemeteries sector is vibrant and engaged, and trust members make invaluable contributions to their communities. Unfortunately, on occasion trust members behave poorly, and this can have a significant impact on other trust members and the ability of the trust to function effectively.

## What is poor behaviour?

Poor trust member behaviour includes a range of behaviour that is disrespectful, inconsiderate, improper, hurtful, threatening, aggressive, fraudulent, or corrupt. It also includes bullying.[[1]](#footnote-2) If poor behaviour is not managed appropriately, it can have a negative effect on trust member communication, relationships, organisational culture, and service delivery.

### Behaviour in trust meetings

Trust meetings naturally involve discussing differing views, opinions, and perspectives to inform the decision-making process. These discussions may be robust but must always be respectful. If a trust member feels strongly about a matter being discussed, it does not excuse inappropriate behaviour. Inappropriate behaviour in trust meetings includes:

* being disruptive, making interruptions or interjections when someone else is speaking
* being disrespectful, not listening to the person who is speaking or undermining their right to speak
* immediately disregarding opinions that do not align with your own views
* raising your voice, displaying verbal or physical aggression.

### Communicating via email

When communicating via email, trust members are expected to conduct themselves as they would in a face-to-face meeting. Emails should be polite, have a professional tone, and be considerate of the recipient. Emails also need to be clear, concise and include all relevant information (use attachments as necessary). Do not use all capital letters or exclamation marks to emphasise or highlight your message, this may be interpreted as shouting at the recipient and is poor email etiquette.

Allow sufficient time when composing an email to ensure the communication is thoughtful and carefully constructed. It is recommended that trust members read draft emails carefully before sending to ensure the language and content is appropriate.

***Concerns or issues outside of trust meetings***

If a trust member has a concern or issue, they should email the chairperson or secretary to place the item on the agenda for the next meeting. The chairperson or secretary should acknowledge receipt of the item for the next agenda.

It is not appropriate to constantly email the chairperson or secretary and demand a concern or issue be addressed outside of a trust meeting unless it is urgent.

Any urgent issues or concerns that impact the functioning of the trust or the operation of the cemetery should be raised with the chairperson. Any matters that need to be voted upon in between trust meetings can be facilitated via circular resolution (for example, an email that sets out the issue and the resolution, with members responding with their vote).

### Threatening behaviour

If a trust member is subject to threatening, aggressive or violent behaviour from other trust members, employees, or members of the community, the matter should be reported to Victoria Police by telephoning 000 or 131 444.

## Who is responsible for addressing concerns about behaviour?

The chairperson of the trust is responsible for managing poor trust member behaviour. This responsibility extends to trust activities outside of trust meetings and email communications, for example events, casual gatherings, and interactions with employees and members of the public.

The chairperson is expected to set a positive example for all trust members by upholding the Victorian public sector values and acting consistently with the Code of Conduct.

## Managing poor behaviour during trust meetings

The chairperson plays a vital role in managing poor behaviour during trust meetings. Chairpersons should employ the following strategies during trust meetings as necessary:

* Remind trust members of the expected standards of behaviour contained in the Code of Conduct.
* Call out inappropriate behaviour at the time it occurs and advise trust members that it is not acceptable.
* Establish an agreed approach for trust meeting agenda items, making it clear when individual members will make uninterrupted presentations and when items are open for discussion.
* Keep discussions to allocated time limits to avoid conversations going off track.
* If a trust member is being ignored or spoken over, direct other trust members to give their colleague the opportunity to speak without interruption.
* Pay attention to non-verbal cues that may indicate someone is hesitant about expressing their opinion and reassure them that their contribution is valued.
* If one trust member is monopolising the meeting, encourage them to keep their comments short and give others a chance to speak.
* Stop unhelpful or harmful conversations by calling the trust meeting to order and redirecting the discussion.
* If discussions become heated, direct the trust to take a short break.
* If a trust member behaves in an aggressive or threatening manner, ask them to leave the meeting. If the trust member refuses to behave in a reasonable manner the chairperson may need to bring the meeting to a close and reconvene another day.

## Taking formal action to manage poor behaviour

Poor behaviour should be managed promptly and effectively to prevent matters from escalating and to minimise the impact on the trust. Taking formal action to manage poor behaviour may be initiated by the chairperson based on their own observations (for example, a patten of poor behaviour exhibited by a trust member) or by a complaint being raised by another trust member.

If a trust member wishes to raise a complaint with the chairperson, ideally this should be a face-to-face conversation. However, if a trust member is uncomfortable speaking about the matter, they may wish to inform the chairperson of their complaint in writing.

### Step 1 – Informal meeting

The chairperson should contact the trust member who has exhibited poor behaviour and arrange a face-to-face meeting to discuss the matter.[[2]](#footnote-3) The chairperson should discuss the complaint without identifying who initially raised the matter. The trust member must be provided with the opportunity to discuss their conduct and respond to the concerns raised.

If the trust member responds positively to the informal discussion and their behaviour improves, no further action is required. If the trust member’s behaviour does not improve, the chairperson should arrange a formal meeting with the trust member.

### Step 2 – Formal meeting

At this meeting, the chairperson should identify and document in writing:

* specific incidents where the trust member demonstrated poor behaviour, including the nature of the behaviour, when it took place and the impact on the trust
* the ways in which the trust member’s behaviour breaches the Code of Conduct
* steps the trust member will need to take to address their behaviour
* confirmation that the trust member understands that if their poor behaviour continues the matter will be referred to the department.

A copy of the written document is to be provided to the trust member following the formal meeting. All information pertaining to the meeting should remain confidential and records should only be accessible by the chairperson. Hard copy records should be stored in a secure location and digital records should be password protected.

Note: The trust member may wish to bring another person to the meeting for support during the process. The chairperson may also consider arranging an independent facilitator for the meeting if necessary and with the prior agreement of the trust member.

### Step 3 – Contacting the department

If a trust member continues to display poor behaviour after the formal meeting, the chairperson can contact the department to discuss options to address the matter. The department will assess the information provided by the chairperson and consider next steps which may include one of the following:

1. The department advises the chairperson and trust member that the reported behaviour is not considered to be a breach of the Code of Conduct and no further action will be taken.
2. The department writes to the trust member advising them that based on the information provided their behaviour is not consistent with the Code of Conduct and what the expected behaviours are.
3. If the trust member’s behaviour continues despite the notification detailed above, or the department is concerned that a trust member’s alleged behaviour may have fallen below the standards required of someone in public office, the department may:

undertake a formal investigation,

make a recommendation to the Minister for Health that the member’s removal from office be sought through the Governor in Council under clause 3(2) of Schedule 1 of the *Cemeteries and Crematoria Act 2003,* or

not support an application for reappointment as a trust member regardless of trust support where the behaviour is determined by the department to be disruptive to the trust functioning effectively.

## What happens if there are concerns about the behaviour of the chairperson?

Where trust members have raised their concerns about the chairperson’s behaviour with the chairperson, and they remain dissatisfied with the conduct of a chairperson, a trust may call for an agenda item to spill the position and vote in a new chairperson.

Concerns about the behaviour of the chairperson may be raised with the department by [emailing the Cemetery Sector Governance Support Unit](mailto:cemeteries@health.vic.gov.au) [cemeteries@health.vic.gov.au](mailto:cemeteries@health.vic.gov.au).

The department does not intervene where there are interpersonal matters or differences of opinion. Trust members are expected to resolve those matters and agree on a way forward, so it can continue to provide services to the community.

# Managing the conduct of trust employees

The trust is responsible for managing employee conduct. The trust must ensure employees understand what is expected of them and should provide feedback on their performance. This can help prevent underperformance.

It is not appropriate for employees to have multiple reporting lines. Trusts should ensure that employees report to and take direction from one person, which is usually the chairperson or the secretary.

Detailed advice and templates for managing employee performance are available on the [Fair Work Ombudsman website](https://www.fairwork.gov.au/employment-conditions/performance-in-the-workplace) <https://www.fairwork.gov.au/employment-conditions/performance-in-the-workplace>. The website also has a free [online training centre](https://www.fairwork.gov.au/tools-and-resources/online-learning-centre) with courses on a range of workplace topics including performance management <https://www.fairwork.gov.au/tools-and-resources/online-learning-centre>.

Trusts that are considering taking formal action to address employee underperformance are strongly encouraged to seek independent legal advice.

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1. More information about bullying is available in the bullying policy template on the [Institute of Community Directors Australia website](https://communitydirectors.com.au/policies/bullying-policy) <https://communitydirectors.com.au/policies/bullying-policy>. [↑](#footnote-ref-2)
2. If unable to meet in person, the meeting may be conducted remotely via an online platform or by phone. [↑](#footnote-ref-3)