



(ICN 9017)

Code of Conduct

IMPORTANT: MTLAC CORE EXPECTATIONS

FOR ALL PERSONS SUBJECT TO THIS CODE – ESPECIALLY MEMBERS AND DIRECTORS:

- Treat others with respect, fairness and compassion
- Act professionally and in the best interests of MTLAC
- Do not bully or harass others
- Do not let personal relationships or views impact negatively on your conduct
- Direct any concerns or complaints through the right channel – the CEO or Chair

FOR MTLAC DIRECTORS:

- Participate in board discussions constructively
- Do not attack or accuse board members, MTLAC staff or third parties
- Act in accordance with your duties and obligations as a director
- Act in a way that upholds MTLAC's reputation
- Keep board matters confidential
- Read all board papers and correspondence and be prepared for meetings

If you fail to meet the standards in this Code, you could be removed from meetings, or subject to other disciplinary steps. This Code includes detailed information about the steps that will be taken if there is a suspected breach of this Code.

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Part 1 – Policy Statement

Purpose

1. Mirning Traditional Lands Aboriginal Corporation RNTBC (**MTLAC**) is committed to good corporate and cultural governance. Adopting good governance measures will help MTLAC achieve its objects.
2. This Code of Conduct (**Code**) is the formal document which sets out the standards of behaviour which are expected by MTLAC and what may happen if a person does not act as expected.

Scope

3. The Code applies to all directors, committee members, members, employees, volunteers and contractors of MTLAC and its Subsidiary Companies.
4. The Code must be followed at all times when undertaking MTLAC business or participating in activities that relate to MTLAC. This includes, for example, when working for MTLAC, making comments publicly about MTLAC and during MTLAC meetings or events.
5. MTLAC directors are the representatives of MTLAC - 24 hours a day, 7 days a week - and are always expected to follow the standards of behaviour set out in this Code.
6. The processes under the Code are **not** applicable in managing a dispute, grievance or a complaint about MTLAC. These are to be managed under the Rule Book and any dispute and grievance policy approved by the MTLAC Board from time to time.
7. Where this Code is being relied on by a Subsidiary Company, references to:
 - (a) 'MTLAC' are to be read as references to the relevant Subsidiary Company; and
 - (b) 'the Board' are to be read as references to the board of the relevant Subsidiary Company.

Privacy

8. MTLAC respects the privacy of all persons making a Complaint under this Code and is committed to ensuring that Complainants are treated fairly and are not subjected to any unfair treatment due to the making of a Complaint (for example, disciplinary action, harassment or intimidation).
9. MTLAC observes the following protocols for the distribution of information provided in respect of a Complaint:
 - (a) Depending on the nature of the Complaint and other relevant information, the Delegate will determine whether or not it is appropriate for the directors to receive a copy of the Complaint.
 - (b) Where a director is the subject of a Complaint, that director will:
 - (i) be asked to leave a Board meeting at any time that the Complaint is being discussed; and

- (ii) not receive any information or documents in respect of the Complaint in their capacity as a director.
 - (c) If documents relating to a Complaint are tabled in hard copy at Board meetings, including the Register of Complaints, at the conclusion of discussion regarding the Complaint, MTLAC will collect the hard copy documents. Directors will not be permitted to retain hard copies.
 - (d) Information and documents regarding a Complaint will not be emailed from MTLAC to directors.
- 10. If MTLAC has a privacy policy in force at the relevant time, MTLAC must comply with the provisions of that policy.

Part 2 – The Policy

Standards of behaviour

- 11. The agreed standards of behaviour are set out as Annexure A to this Code (**Standards of Behaviour**). For directors, these standards of behaviour are in addition to their legal directors' duties.
- 12. The agreed standards of behaviour for MTLAC meetings, events or functions are set out as Annexure B to this Code (**Meeting Guide**).
- 13. 3 fictional case studies that provide an example of how this Code will be applied are set out as Annexure C to this Code.

Managing breaches during MTLAC meetings

- 14. The person chairing or facilitating a meeting may determine that a person has failed to act in accordance with the Standards of Behaviour or the Meeting Guide. The person chairing or facilitating has the discretion to make this determination at a meeting, without following the investigation process set out in this Code.
- 15. If the person chairing or facilitating a meeting determines that a person has failed to act in accordance with the Standards of Behaviour or the Meeting Guide, the person chairing or facilitating the meeting may:
 - (a) give that person a formal warning (or multiple formal warnings, as considered appropriate);
 - (b) remove that person from the meeting; and
 - (c) where the conduct is considered a threat to any other person, lodge a complaint with the police.
- 16. In addition to the above action being taken at a meeting, a Complaint may be lodged following the conclusion of a meeting in accordance with the process set out in this Code.

Processing Complaints

Lodging a Complaint

17. If a person considers that another person has failed to act in accordance with the Standards of Behaviour or the Meeting Guide, they can complete a Complaint Form and lodge it with MTLAC.

Alleged breaches regarding employees

18. If a Complaint is made against an employee, that Complaint is to be managed in accordance with the relevant human resources policies, the terms of that person's employment agreement and all applicable employment laws.

Role of the Delegate

19. The Board has appointed the CEO to assist with collating and processing of Complaints (**Delegate**).
20. Where the Delegate is the subject of a Complaint, the chairperson must appoint an alternate person (usually themselves as chairperson or another director) to perform the Delegate's role in respect of that Complaint.

Assessing Complaints

21. The Delegate will undertake the following steps:

Step 1 – Collate the Complaint Form, any supporting documents provided in respect of the Complaint and all MTLAC information and documents that may relate to the subject of the Complaint (for example, minutes of the relevant meeting).

Step 2 – Determine if all necessary information has been provided.

Step 3 – Contact the Complainant to acknowledge receipt of the Complaint and, if required, seek additional information.

Step 4 – Assess the Complaint to determine whether it falls within the scope of this Code.

Step 5 – If the Complaint does not fall within the scope of this Code, the Delegate will dismiss the Complaint and notify the Complainant accordingly.

Step 6 – If the Complaint does fall within the scope of this Code, the Delegate will arrange an investigation in accordance with the process set out in paragraph 25.

22. The Delegate may, but is not required to, consult with the chairperson when undertaking the above steps. Where the chairperson is the subject of a Complaint, the Delegate may consult with an alternate director (usually the vice chairperson).
23. The Delegate will undertake each of the above steps in a timely manner and, where possible, will endeavour to complete all steps above within 30 days of MTLAC receiving a Complaint Form.
24. The Delegate will endeavour to keep the Complainant updated throughout the process, including notifying the Complainant when the process is complete.

Investigations

25. The Delegate will determine, having regard to the nature and content of the Complaint (i.e. the severity of the alleged behaviour, the complexity of the Complaint and potential conflicts of interest), the process for conducting the investigation, including the:
- (a) nature and scope of the investigation;
 - (b) person or people who will undertake the investigation, based on the factors considered at paragraph 26;
 - (c) technical, financial or legal advice that may be required to support the investigation (if any); and
 - (d) timeframe for conducting and completing the investigation.
26. When considering who is most appropriate person or people to undertake the investigation, the Delegate may determine that it is appropriate for:
- (a) **the Delegate** to undertake the investigation in some situations - for example, where:
 - (i) the facts surrounding the Complaint are simple and easy to identify; and
 - (ii) the alleged behaviour is not of a very serious or complex nature;
 - (b) **a Board sub committee** to undertake the investigation in some situations - for example, where the facts surrounding the Complaint are simple and easy to identify, but the matter involves community sensitivities; or
 - (c) **an independent external person** to undertake the investigation in some situations - for example, where:
 - (i) the alleged conduct is of a very complex or serious nature; or
 - (ii) conflicts of interest prevent an internal person undertaking an unbiased assessment (whether actual or perceived).
27. An external investigation must be conducted by an independent investigator. The investigator should not be MTLAC's lawyers as they will not be sufficiently independent. However, in some circumstances, it may be appropriate for MTLAC's lawyers to brief and engage an external investigator on MTLAC's behalf.

Conduct of investigations

28. Each investigation conducted under this Code must be conducted in an objective, fair and independent manner, and otherwise as is reasonable and appropriate having regard to the nature of the Complaint and any other relevant circumstances.
29. An investigation will seek to:
- (a) uncover the facts in respect of the Complaint;

- (b) conduct a thorough inquiry, considering all relevant facts and following all valid leads, to come to an independent assessment as to whether the conduct the subject of the Complaint is substantiated or not substantiated;
 - (c) reach an objective conclusion as to whether a breach of this Code has occurred, regardless of the status or position of the person under investigation, the opinion of others or pressure to make a specific finding; and
 - (d) if it is found that a breach of this Code did occur, provide an opinion as to what disciplinary action may be appropriate.
30. The Delegate must provide the investigator with all background documents relating to the Complaint.
31. The Complainant may be contacted during an investigation for the purpose of requesting further information regarding the Complaint or any other matter that may be relevant to the investigation. The Complainant is not required to provide this information or participate in the investigation process.
32. If, during an investigation, it is determined that a Complaint may be substantiated, the Respondent will be given the opportunity to be interviewed or to provide a written statement in respect of the Complaint. Where an interview is conducted, a Respondent will be entitled to have a non-legal support person present.
33. An investigator may recommend at any stage during an investigation that a Complaint be dismissed if, acting reasonably, it appears that the Complaint is unlikely to be substantiated.
34. The investigator must provide:
- (a) the findings of each investigation to the Delegate; and
 - (b) a summary of the findings of each investigation to the Board.

Consequences of a breach of the Code of Conduct

35. Disciplinary action may be taken against a person if a breach of the Standards of Behaviour or Meeting Guide is substantiated. The type of disciplinary action will depend upon the nature of the breach and the circumstances of the person and may include:
- (a) formal warnings;
 - (b) removal from a MTLAC meeting;
 - (c) a requirement to attend specified training;
 - (d) a request that the person step down from their position;
 - (e) formal removal of the person from their position;
 - (f) a prohibition from holding a similar position for a period of time;
 - (g) a 'non-contact' period, where a person is banned from contacting the MTLAC staff or directors;

- (h) notification to external authorities (e.g. the police, the ACNC or ORIC);
 - (i) suspension of sitting fees or other payments;
 - (j) removal as a director of MTLAC in accordance with the Rule Book; or
 - (k) removal as a member of MTLAC in accordance with the Rule Book.
36. The Board, in its sole discretion, will determine what disciplinary action, if any, will be taken.
37. Any employee that is found to have breached this Code will be subject to disciplinary action in accordance with the terms of their employment agreement and all applicable employment laws.
38. The Delegate will notify the Respondent of the disciplinary action which the Board determines appropriate.

Principles for managing breaches

39. The following principles will apply at any time that this Code is being applied:
- (a) procedural fairness and respect will be afforded to all parties;
 - (b) any processes that are applied must be fair and transparent for all parties;
 - (c) confidentiality and privacy of all parties will be respected;
 - (d) decisions will be made in a culturally sensitive and appropriate manner;
 - (e) timely decisions will be made and communicated;
 - (f) assessments and investigations will be fair and impartial; and
 - (g) the best interests of the MTLAC community will be considered.

Records

40. The Delegate must maintain a register of Complaints that records the:
- (a) date the Complaint was received;
 - (b) name of the Complainant;
 - (c) name of the Respondent;
 - (d) outcomes of the investigation of the Complaint;
 - (e) type of investigation undertaken in respect of the Complaint, if any (i.e. Delegate, Board sub-committee or independent external person); and
 - (f) disciplinary action taken in respect of the Complaint, if any,

(Register of Complaints).

41. The Delegate will report to the Board in respect of Complaints received under this Code and provide a copy of the Register of Complaints.

Part 3 – Technical Matters

Definitions

ACNC	means the Australian Charities and Not-for-profits Commission.
Code	has the meaning given in paragraph 2.
Complainant	means a person making a Complaint.
Complaint	means an allegation made to MTLAC that a director, committee member, member, employee, volunteer or contractor has behaved in a manner that does not comply with this Code.
Complaint Form	means the form prescribed by MTLAC, as available from the MTLAC office and on the MTLAC website, a copy of which is set out in Schedule 3, and any supporting documents received by MTLAC in respect of a Complaint.
Delegate	has the meaning given paragraph 19.
Meeting Guide	has the meaning given in paragraph 12 and are set out in Annexure B to this Code.
ORIC	means the Office of the Registrar of Indigenous Corporations.
Register of Complaints	has the meaning given in paragraph 40.
Respondent	means a person that is the subject of a Complaint.
Standards of Behaviour	has the meaning given in paragraph 11 and are set out in Annexure A to this Code.
Subsidiary Company	means Mirning Green Energy Limited and any other entity in which MTLAC is the ultimate holding entity, as determined by the MTLAC board from time to time.

Amendments to this Policy

This Policy may be amended by resolution of the Board.

Related Policies

To be included as policies are developed and adopted by the Board

Document version control

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Change history

Version #	Date Authorised:	Authorised by:

Standards of Behaviour

The following standards of behaviour apply to all directors, committee members, members, employees, volunteers and contractors of MTLAC.

Respect for others

I will treat everyone with respect and courtesy. I will respect other people's values, beliefs, ideas and privacy.

- ✓ Treat others fairly.
- ✓ Respect Mirning law and custom, and its relationship with the Spinifex People.
- ✓ Treat others how I would like to be treated.
- ✓ Be polite, listen and respect other people's points of view.
- ✓ Act professionally, and in the best interests of MTLAC.
- ✗ Do not bully or fight with others.
- ✗ Do not discriminate, victimise or harass a person based on their race, colour, religion, national origin, gender, age, marital status, disability, sexual identity, pregnancy or any other matter that is not relevant to that person's competence or performance.
- ✗ Do not let personal relationships or views impact on my professional conduct.
- ✗ Do not make comments or posts on social media that are not in MTLAC's best interests.
- ✗ Do not make negative or insulting comments on social media that relate to a person's work with MTLAC.

Honesty and integrity

I will be honest and do the right thing for MTLAC. I will be fair and not take sides when dealing with other people or making decisions.

- ✓ Be honest and trustworthy.
- ✓ Act ethically, fairly and do the right thing.
- ✓ Act in a way that maintains MTLAC's reputation.
- ✓ Demonstrate the leadership behaviours that are taught in MTLAC programs.
- ✓ Respect the privacy of others.
- ✗ Do not use your position to obtain a private benefit for yourself, your family or friends.
- ✗ Do not access personal information about someone unless it is necessary for your work and you have permission to do so.

Respect for property, equipment and environment

I will take care of property and do my part to make sure that the workplace or meeting place is safe for everybody.

Information

- ✓ Take care with information that is confidential.
- ✗ Do not share confidential information with anyone unless you are authorised to do so.
- ✗ Do not speak to the newspapers, television or other reporters about MTLAC business unless you are authorised by the Board or its delegate to do so.

Money

- ✓ Only use money for proper purposes that have been approved.
- ✓ Keep records of all money that's used.
- ✗ Do not spend MTLAC's money for your personal use or for your family or friends.

Equipment and property

- ✓ Take care of MTLAC's equipment and property.
- ✗ Do not use equipment or property for your own personal use, or allow family or friends to use equipment or property, unless you are authorised to do so.
- ✗ Do not sell, lend or donate equipment and property unless you are authorised to do so.

Computers and electronic devices

- ✓ Use computers and other electronic devices appropriately.
- ✗ Do not share passwords with any person or use a password that is not yours.
- ✗ Do not store or send inappropriate messages or pictures such as pornographic, illegal, racist or violent files using MTLAC equipment.

Environment

- ✓ Follow health and safety work policies and practices.
- ✓ Immediately report any hazards or workplace injuries.

Follow the rules and the law

I will follow MTLAC's rules (in the Rule Book, as well as policies and procedures) and the laws that apply to MTLAC. I acknowledge that I am responsible and accountable for my own actions.

- ✓ Respect all Mirning and Spinifex traditional laws and customs.
- ✓ Comply with all laws, policies, procedures, rules and contracts that apply to you.
- ✓ Follow all lawful and reasonable directions.
- ✓ Undertake training that increases your ability to fulfil your responsibilities and role with MTLAC, including governance training or cross-cultural awareness training.
- ✓ Immediately report any breaches of the law, Rule Book, policies and this Code to the CEO or chairperson.
- ✗ Do not participate in illegal activity.

Meeting Guide

This Meeting Guide applies at every meeting, event or function run by MTLAC.

This Meeting Guide applies to every person that attends the meeting, event or function.

This Meeting Guide also sets out the standards of behaviour that are expected of directors when they are attending any third party meeting, event or function as a representative of MTLAC.

Be respectful:

- ✓ Respect MTLAC governance and the discussions that take place at a meeting.
- ✓ Respect the facilitator as the person who is in charge of the meeting.
- ✓ Treat others fairly and with respect, by:
 - listening to others and letting them have their say;
 - focussing on the issue, and not on the person;
 - not interrupting others; and
 - not making personal attacks on others.
- ✓ Wait to be recognised by the facilitator before speaking to the meeting.
- ✓ Switch off or put on silent all mobile phones and electronic devices.
- ✓ Discretely enter and exit the meeting while it is in progress.

Be open and curious:

- ✓ Respect that people have different opinions – try to understand where they are coming from.
- ✓ Ask questions to understand what is being discussed or what the speaker is saying.
- ✓ Remember that people have different ways of speaking and that English is not always a person's first language.

Keep to meeting business:

- ✓ Read all papers and minutes before attending the meeting.
- ✓ Keep to the agenda.
- ✓ Only discuss things that aren't on the agenda during "Any other business".
- ✗ Do not raise personal matters which are not the proper business of meeting.

No offensive behaviour:

- ✗ Do not fight at meetings.
- ✗ Do not bully others at meetings. This includes being abusive, threatening or intimidating.
- ✗ Do not make racist or sexist remarks at a meeting.
- ✗ Do not bring drugs or alcohol into a meeting.
- ✗ Do not enter a meeting if you are under the influence of drugs or alcohol.

Keep meeting business private:

- ✓ Keep information discussed at meetings confidential. Only share information with other people who are entitled to the information.

Case Studies

The following case studies are examples of behaviour that may fall within the scope of the Code of Conduct.

Example 1 – Disruptions at a meeting

During a community workshop run by MTLAC in Eucla, Bob who is a member of MTLAC and Gene, who is not a member of MTLAC were having a noisy argument.

The facilitator stopped the workshop and asked Bob and Gene to observe the Meeting Guide and wait to be recognised by the meeting before speaking.

Bob responded by shouting abusive language at the facilitator and he and Gene continued their argument, stopping the workshop from continuing.

Question 1: *Is the person the subject of the complaint covered by the Code of Conduct?*

Bob is a member of MTLAC. He must comply with the Code of Conduct.

Gene is not a member of MTLAC. He is not required to comply with the Code of Conduct. However, as Gene is an attendee at a MTLAC event, he must comply with the Meeting Guide.

Question 2: *Did the incident happen at a meeting, event or function connected to MTLAC?*

Yes, the workshop was being run by MTLAC.

Question 3: *Does the behaviour meet the standards set out in the Code of Conduct?*

No. The Meeting Guide requires participants to:

- be respectful, by waiting to be recognised by the facilitator before speaking to the meeting; and
- not use offensive behaviour, by not being abusive.

What will the consequences be?

The facilitator may give Bob and Gene another warning that their behaviour is unacceptable.

If the behaviour continues, the facilitator can ask for Bob and Gene to be removed from the workshop. The facilitator has a duty of care to the other participants at the workshop and in serious circumstances, may call security or police to ensure that the attendees at the workshop stay safe. If the behaviour becomes threatening or dangerous to those in attendance, the facilitator may need to close the workshop.

The facilitator may also make a complaint to MTLAC about the conduct. The CEO and the Board will then follow the processes in the Code to determine if further disciplinary action will be taken against Bob. This may lead to Bob being issued a formal warning, or the matter being reported to ORIC.

Gene will not be subject to further disciplinary action as he is not a member of MTLAC.

Example 2 – Rude and insulting behaviour

Linda and Tina have been appointed as directors of MTLAC.

At the last board meeting, Linda supported an application for MTLAC membership from a member of her family. Tina argued against the application stating that the applicant was not eligible. The discussion developed into a verbal argument. The chairperson suspended that agenda item pending further evidence of eligibility. There was no further discussion of the matter during the meeting.

After the meeting Tina sent several rude and threatening emails and text messages to Linda and posted derogatory comments on her personal Facebook page. The comments did not make reference to MTLAC or Linda's role as a director of MTLAC.

Linda has made a complaint to the CEO and wants MTLAC to take legal action against Tina.

Question 1: *Is the person the subject of the complaint covered by the Code of Conduct?*

Linda and Tina are directors of MTLAC. They must comply with the Code of Conduct.

Question 2: *Did the incident happen at meeting, event or function connected to MTLAC?*

No. The disagreement occurred during a board meeting, however this was managed by the chairperson at the time. There is no suggestion that the disagreement during the meeting was rude or threatening. The rude and threatening behaviour occurred outside of MTLAC activities.

Question 3: *Does the behaviour meet the standards set out in the Code of Conduct?*

Yes. The behaviour during the meeting met the Code of Conduct.

What will the consequences be?

The CEO, as the Delegate under the Code of Conduct, will review the complaint and do an initial assessment to determine if the complaint falls within the scope of the Code of Conduct.

As the behaviour did not occur at a MTLAC meeting or event, and did not directly involve MTLAC or include any reference to MTLAC, the CEO will likely dismiss the complaint and MTLAC will write to Linda and let her know this.

Example 3 – Intimidation of MTLAC employee by a director

Jimmy is a newly appointed director of the MTLAC Board. He has received a director induction pack and agreed to abide by the Code of Conduct.

At the board meeting earlier this week Louise, a MTLAC employee, presented a draft employment policy for the board's approval.

Jimmy, whose sister was recently unsuccessful in applying for a position with MTLAC, stood and approached Louise, calling her corrupt and racist. Jimmy stood over Louise and refused to resume his seat, calling for the chairperson to sack Louise immediately.

Louise was intimidated by this behaviour, left the meeting and went home. She has been on personal leave for the last three days.

Question 1: *Is the person the subject of the complaint covered by the Code of Conduct?*

Jimmy is a director of MTLAC. He must comply with the Code of Conduct.

Louise is an employee of MTLAC and must comply with the Code of Conduct as part of her employment obligations.

Question 2: *Did the incident happen at meeting, event or function connected to MTLAC?*

Yes. The intimidating behaviour occurred during an MTLAC board meeting.

Question 3: *Does the behaviour meet the standards set out in the Code of Conduct?*

No. Under the Code of Conduct, Jimmy must show respect for others, act with honesty and integrity and not behave in an offensive manner during MTLAC meetings.

What will the consequences be?

This is a serious breach of the Code of Conduct and is a workplace safety incident.

Linda, or a person that witnessed the behaviour, will make a complaint to MTLAC.

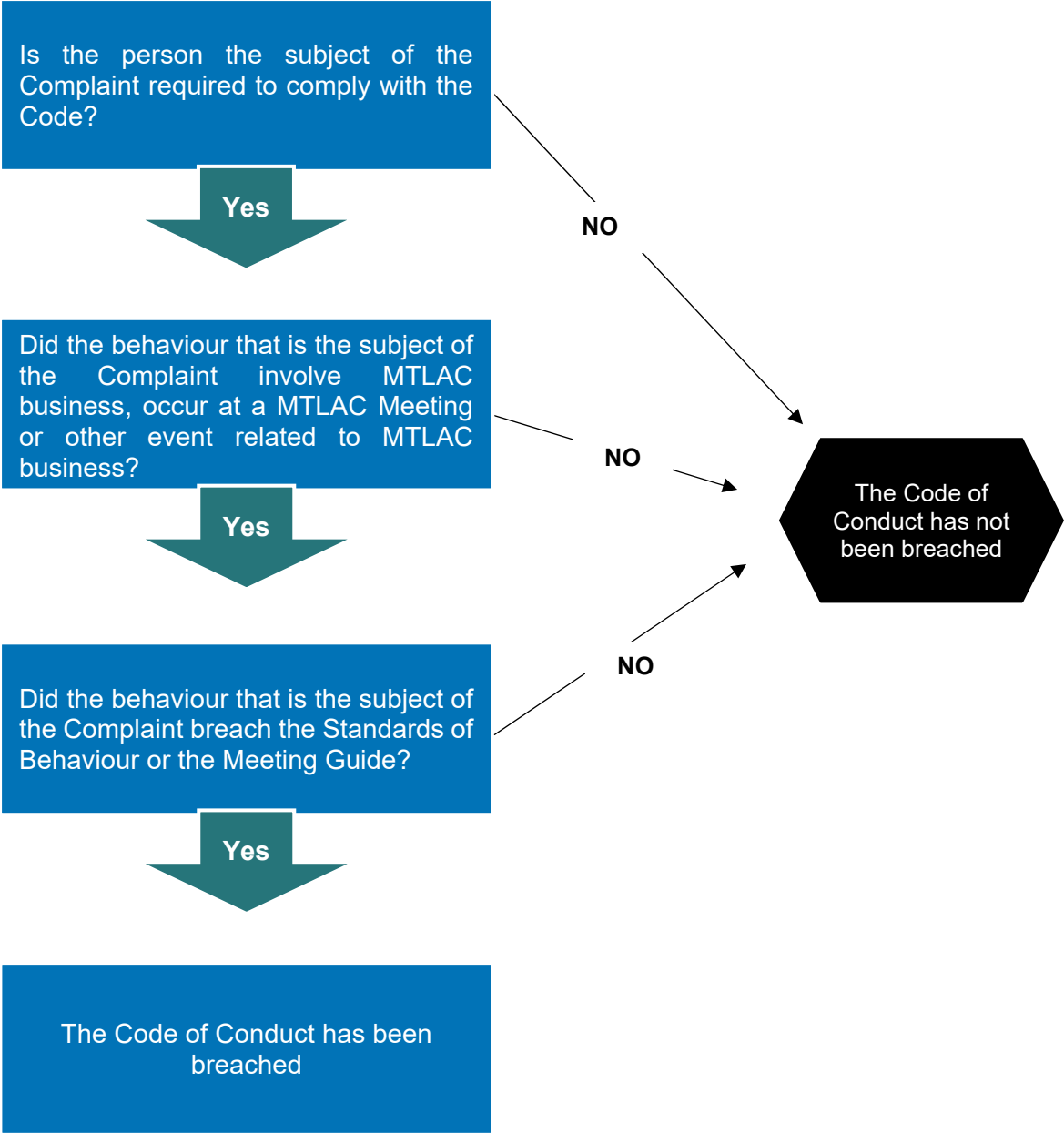
The CEO, as the Delegate under the Code of Conduct, will review the complaint and do an initial assessment to determine if the complaint falls within the scope of the Code of Conduct.

As the behaviour occurred during a board meeting and is very serious in nature, the CEO will determine that the complaint falls under the Code of Conduct and arrange an investigation. The facts involved in the complaint are contained and easy to identify (occurring in the board room), however the subject matter is sensitive. The CEO may determine that a board sub-committee should complete the investigation. If it is found that the Code has been breached, the sub-committee will make recommendations to the board as to what disciplinary action should be taken. The board will determine what disciplinary action will be taken which may include Jimmy receiving a formal warning and being required to undertake training. Jimmy will not take part in any of these discussions.

The CEO should offer assistance to Louise and support her to return to the workplace as soon as possible.

Schedule 1 – Decision Tree

Key questions in determining if the Code of Conduct has been breached



Schedule 2 – Flow chart of process for managing breaches



Schedule 3 – Complaint Form

This form is to be used to notify MTLAC of behaviour that is below what is expected of MTLAC directors, committee members, members, employees, volunteers and contractors of MTLAC.

It may be completed by the person that raised concerns about an incident or by a member of MTLAC's staff.

Details of the person raising concerns

Name: _____

Phone: _____

Email: _____

Details of the person whose behaviour was unacceptable (if known)

Name: _____

Details of the incident

Date of incident: _____

Location of incident: _____

Description of what happened: _____

Supporting documents provided: _____

OFFICE USE ONLY

Prepared by: _____

Received by: _____

Date received: _____