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# Councillor Code of Conduct



February 2021

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Northern Grampians Shire Council  
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## INTRODUCTION

### 1. Nature of Code

This is the Councillor Code of Conduct of the Northern Grampians Shire Council, made in accordance with Section 139 of the *Local Government Act 2020*.

### 2. Date of Commencement

The Code of Conduct commences on 1 February 2021.

### 3. Contents and Structure

The *Code of Conduct* is divided into the following Chapters. The structure is based on the headings of the Standards of Conduct set out in the *Local Government (Governance and Integrity) Regulations 2020*.

Chapter 1	Treatment of others
Chapter 2	Performing the role of Councillor
Chapter 3	Compliance with good governance measures
Chapter 4	Councillor must not discredit or mislead Council or public
Chapter 5	Standards do not limit robust political debate
Appendix	Disputes between Councillors

Only those matters that are clearly identified at the beginning of each Chapter constitute Standards of Conduct for the purposes of the Act.

Any additional obligations, values or expectations specified in the Code have been included because Councillors consider that they will contribute to the good governance, integrity and responsible operation of Council.

Councillors acknowledge that these additional matters are expressed as operating in addition to the Standards of Conduct and that they are not intended to modify, or derogate from, the Standards of Conduct set out in the Act and the Regulations.

### 4. Definitions

In the Code of Conduct, unless the context suggests otherwise, the following words and phrases mean—

<i>Act</i>	<i>means the Local Government Act 2020</i>
<i>Arbiter</i>	<i>means an eligible person on a panel list established by the Secretary selected by the Principal Conduct Registrar to conduct an internal arbitration process</i>
<i>Chief Executive Officer</i>	<i>means the Chief Executive Officer of Council</i>
<i>conflict of interest</i>	<i>means a general conflict of interest as set out in Section 127 of the Act and a material conflict of interest as set out in Section 128 of the Act</i>
<i>Code of Conduct</i>	<i>means the Councillor Code of Conduct</i>
<i>Council</i>	<i>means this Northern Grampians Shire Council</i>

<i>Councillor</i>	<i>means a person who is an elected member of the Council as defined under the Act and includes the Mayor, the Deputy Mayor and all other councillors</i>
<i>Council meeting</i>	<i>means a meeting of Council at which all the Councillors are, subject to the Act, entitled to be present and vote</i>
<i>Mayor</i>	<i>means the Mayor of Council</i>
<i>misconduct</i>	<i>means any breach by a Councillor of the Standards of Conduct</i>
<i>Regulations</i>	<i>means the Local Government (Governance and Integrity) Regulations 2020</i>
<i>senior officer</i>	<i>means a member of the Executive Leadership Team</i>
<i>Standards of Conduct</i>	<i>means the standards of conduct prescribed in the Regulations</i>

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## 5. Legislation

The Act requires a council to develop and maintain a Councillor Code of Conduct. This Code of Conduct has been adopted by the Council to comply with the requirements of the Act.

A Councillor Code of Conduct:

- a. must include the Standards of Conduct prescribed by the Regulations expected to be observed by Councillors; and
- b. must include any provisions prescribed by the Regulations; and
- c. must include provisions addressing any matters prescribed by the Regulations; and
- d. may include any other matters which the Council considers appropriate, other than any other Standards of Conduct.

A council must review and adopt the Code of Conduct within the period of 4 months after a general election.

A council must adopt the Code of Conduct under Section 139(4) by a formal resolution of the council passed at a meeting by at least two-thirds of the total number of Councillors elected to the council.

A breach of the Standards of Conduct will constitute misconduct and may be referred to the internal arbitration process. If an Arbiter makes a finding of misconduct against a Councillor, the Councillor may be subject to sanctions by the Arbiter in accordance with Section 147(2) of the Act.

Section 30 of the Act requires all Councillors to take the oath or affirmation of office before they are capable of acting as Councillors. The oath and affirmation require Councillors to swear and affirm that they will abide by the Councillor Code of Conduct and uphold the Standards of Conduct.

## 6. Purpose

The purpose of the Code of Conduct is to set out the Standards of Conduct with which Councillors must comply and to describe the principles, values, standards and behaviours that will guide Council collectively and Councillors individually in fulfilling their role and functions. The Code of Conduct sets out the internal arbitration process and provides guidance in the event of any breach of the Code of Conduct and/or Standards of Conduct.

## 7. Scope

7.1 The Code of Conduct applies to all Councillors.

7.2 The Code of Conduct:

- a. sets out the Standards of Conduct and behaviour expected to be observed by Councillors in the course of performing their duties and functions as Councillors as well as providing a means for dealing with problems or interpersonal disputes that they may encounter;
- b. endeavours to foster good working relationships between Councillors to enable Councillors to work constructively together in the best interests of the local community; and
- c. sets out Councillor conduct designed to build and maintain public confidence in the integrity of local government.

- 7.3 The Code of Conduct should be read in the context of and in conjunction with—
- a. the Regulations and the Standards of Conduct set out in Schedule 1 to the Regulations.
  - b. Council documents, policies, protocols and local laws, as applicable and amended from time to time, including:
    - [Governance Rules](#)
    - [Conflict of Interest Procedure](#)
    - [Code of Conduct for Staff](#)
    - [Council Expenses Policy](#)
    - [Public Transparency Policy](#)
    - Councillor Gift Policy (under construction)*
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    - Media and Communications Policy (under construction)*
    - [Social Media Policy](#)
    - [Occupational Health & Safety Policy](#)
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    - [Privacy and Data Protection & Health Records Policy](#); and
  - c. any relevant Ministerial Directions and Guidelines prepared by the Minister for Local Government.

## CHAPTER 1 - TREATMENT OF OTHERS

### Standard 1:

*A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—*

- a. takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the Equal Opportunity Act 2010;*
- b. supports the Council in fulfilling its obligation to achieve and promote gender equality;*
- c. does not engage in abusive, obscene, offensive or threatening behaviour in their dealings with members of the public, Council staff and Councillors;*
- d. in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.*

### 8. Promoting Wellbeing in the Workplace

A Councillor, while carrying out their duties as a Councillor, is recognised as a 'worker' by Victorian workers compensation legislation, and Council is, while the Councillor is carrying out duties as a Councillor, deemed to be the Councillor's employer.

Councillors must therefore comply with any policies or procedures adopted by Council to ensure workplace health and safety. Specifically, Councillors must:

- a. take reasonable care for their own health and safety;
- b. take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons;
- c. comply, so far as they are reasonably able, with any reasonable instruction that is given to ensure compliance with the *Occupational Health and Safety Act 2004* and any policies or procedures adopted by the Council to ensure workplace health and safety;
- d. cooperate with any reasonable policy or procedure of the Council relating to workplace health or safety that has been notified to council staff;
- e. report accidents, incidents, near misses, to the Chief Executive Officer and take part in any incident investigations; and
- f. so far as is reasonably practicable, consult, co-operate and co-ordinate with all others who have a duty under the *Occupational Health & Safety Act 2004* about the same matter.

### 9. Councillor Relationships with Council Staff

Councillors must not:

- a. direct Council staff in any way, other than by giving appropriate direction to the Chief Executive Officer by way of a Council resolution;
- b. in any public or private forum, direct or influence, or attempt to direct or influence, any member of Council staff in the exercise of the functions of the staff member;
- c. contact a member of Council staff on Council-related business unless in accordance with the procedures governing the interaction of Councillors and Council staff that have been authorised by the Chief Executive Officer;

- d. contact or issue instructions to any of the Council's contractors, including the Council's legal advisers, unless by the Mayor exercising their functions under Section 18 of the Act.

## 10. Harassment and Discrimination

- 10.1 Harassment will not be tolerated under any circumstances. Additionally, we will not engage in or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- 10.2 For the purposes of the Code of Conduct, "harassment" is a form of behaviour towards a person that:
  - a. is not wanted by the person;
  - b. offends, humiliates or intimidates the person; and
  - c. creates a hostile environment.

## 11. Bullying

- 11.1 We commit to maintaining a workplace that is free from bullying, vilification and victimisation, where all people are treated with dignity and respect. We will uphold Council's obligations to support a safe workplace, and will not engage in repeated unreasonable behaviour toward another Councillor or member of Council staff.
- 11.2 For this Code of Conduct, "bullying behaviour" is any behaviour in which:
  - a. a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons; and
  - b. the behaviour creates a risk to health and safety.
- 11.3 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
  - a. aggressive, threatening or intimidating conduct;
  - b. belittling or humiliating comments;
  - c. spreading malicious rumours;
  - d. teasing, practical jokes or 'initiation ceremonies';
  - e. exclusion from work-related events;
  - f. displaying offensive material;
  - g. pressure to behave inappropriately.

## 12. Gender Equality

We commit to working with management to take positive action towards achieving workplace gender equality and to consider and promote gender equality in the Council's policies, programs and services.

## CHAPTER 2 - PERFORMING THE ROLE OF THE COUNCILLOR

### Standard 2:

*A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor:*

- a. undertakes any training or professional development activities the Council decides is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor;*
- b. diligently uses Council processes to become informed about matters which are subject to Council decisions;*
- c. is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity;*
- d. represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.*

### 13. Role of Council

Section 8 of the Act provides that the role of the Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.

A Council provides good governance if:

- a. it performs its role in accordance with the overarching governance principles and supporting principles set out in Section 9 of the Act; and
- b. the Councillors perform their roles in accordance with Section 28 of the Act.

In performing its role, the Council may:

- a. perform any duties or functions or exercise any powers conferred on the Council by or under the Act or any other Act; and
- b. perform any other functions that the Council determines are necessary to enable the Council to perform its role.

If it is necessary to do so for the purpose of performing its role, the Council may perform a function outside its municipal district.

### 14. Role of a Councillor

Section 28 of the Act provides that the role of every Councillor is:

- a. to participate in the decision-making of the Council; and
- b. to represent the interests of the municipal community in that decision-making; and
- c. to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

In performing the role of a Councillor, a Councillor must—

- a. consider the diversity of interests and needs of the municipal community;
- b. support the role of the Council;
- c. acknowledge and support the role of the Mayor;
- d. act lawfully and in accordance with the standards of conduct;
- e. act in accordance with the standards of conduct and
- f. comply with Council procedures required for good governance.

The role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer.

## 15. Role of the Mayor

Section 18 of the Act provides that the role of the Mayor is to:

- a. chair Council meetings;
- b. be the principal spokesperson for the Council;
- c. lead engagement with the municipal community on the development of the Council Plan;
- d. report to the municipal community, at least once each year, on the implementation of the Council Plan; and
- e. promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct;
- f. assist Councillors to understand their role;
- g. take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer;
- h. provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
- i. perform civic and ceremonial duties on behalf of the Council.

## 16. Functions of the Chief Executive Officer

Section 94A of the *Local Government Act 1989* sets out the functions of the Chief Executive Officer, which include:

- a. establishing and maintaining an appropriate organisational structure for Council;
- b. ensuring Council decisions are implemented without undue delay;
- c. day to day management of Council's operations in accordance with the Council Plan;
- d. developing, adopting and disseminating a Staff Code of Conduct;
- e. providing timely advice to Council;
- f. ensuring that Council receives timely and reliable advice about its legal obligations;
- g. supporting the Mayor in the performance of the Mayor's role; and
- h. carrying out Council's obligations as an employer with respect to Councillors as deemed employees under the workplace health and safety legislation.

From 1 July 2021, Section 94A of the *Local Government Act 1989* will be replaced by Section 46 of the Act. Under Section 46 of the Act, a Chief Executive Officer is responsible for:—

- a. supporting the Mayor and the Councillors in the performance of their roles; and
- b. ensuring the effective and efficient management of the day to day operations of the Council.

This responsibility includes the following:

- a. ensuring that the decisions of the Council are implemented without undue delay;
- b. ensuring that the Council receives timely and reliable advice about its obligations under the Act and any other Act;
- c. supporting the Mayor in the performance of the Mayor's role as Mayor;
- d. setting the agenda for Council meetings after consulting the Mayor;

- e. when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision;
- f. carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the *Workplace Injury Rehabilitation and Compensation Act 2013*;
- g. establishing and maintaining an organisational structure for the Council;
- h. being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff;
- i. managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between members of Council staff and Councillors are developed and implemented; and
- j. performing any other function or duty of the Chief Executive Officer specified in the Act or any other Act.

## 17. Councillor Misconduct

Misconduct by a Councillor is any breach of the Standards of Conduct included in the Regulations.

**Serious misconduct** by a Councillor means any of the following:

- a. Failure to comply with internal arbitration processes/comply with direction given by an arbiter after completing internal arbitration;
- b. Failure to attend a Councillor Conduct Panel hearing/comply with direction given by the Councillor Conduct Panel;
- c. Continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor;
- d. Bullying/sexual harassment of another Councillor or member of Council staff;
- e. Disclosure of information the Councillor knows, or should reasonably know, is confidential information;
- f. Contravening the requirement that a Councillor must not direct or seek to direct a member of Council staff; and
- g. Failure to disclose conflict of interest and exclude themselves from decision making when required.

**Gross misconduct** means behaviour that demonstrates a Councillor:

- a. is not of good character; or
- b. is not a fit and proper person to hold the office of Councillor, including sexual harassment or of egregious nature.

## 18. Training

- 18.1 We commit to undertaking any training or professional development activities the Council decides is necessary for all Councillors to undertake to effectively perform the role of a Councillor.
- 18.2 A Councillor elected to the position of Mayor commits to undertaking any relevant training or development activities the Council decides are necessary for them to effectively perform the role of Mayor.

## CHAPTER 3 - COMPLIANCE WITH GOOD GOVERNANCE MEASURES

### Standard 3:

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following:

- a. any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with Section 46 of the Act for managing interactions between members of Council staff and Councillors;
- b. the Council Expenses Policy adopted and maintained by the Council under Section 41 of the Act;
- c. the Governance Rules developed, adopted and kept in force by the Council under Section 60 of the Act;
- d. any directions of the Minister issued under Section 175 of the Act.

### 19. Overarching Governance Principles

In performing our role we will give effect to the overarching governance principles set out in Section 9 of the Act—

- a. Council decisions are to be made and actions taken in accordance with the relevant law;
- b. priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- c. the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- d. the municipal community is to be engaged in strategic planning and strategic decision making;
- e. innovation and continuous improvement is to be pursued;
- f. collaboration with other Councils and Governments and statutory bodies is to be sought;
- g. the ongoing financial viability of the Council is to be ensured;
- h. regional, state and national plans and policies are to be taken into account in strategic planning and decision making; and
- i. the transparency of Council decisions, actions and information is to be ensured.

### 20. Council Policy

We will comply with all policies adopted by Council that are intended to bind Councillors. Specifically, we will comply with the following:

- a. any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with Section 46 of the Act for managing interactions between members of Council staff and Councillors;
- b. the Council Expenses Policy adopted and maintained by the Council under Section 41 of the Act;
- c. the Governance Rules adopted and kept in force by the Council under Section 60 of the Act; and
- d. any directions of the Minister issued under Section 175 of the Act.

### 21. Internet Access/Media Policy

- 21.1 We will not use the Council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to a criminal penalty or civil liability and/or damage the Council's reputation.

- 21.2 We acknowledge our responsibilities under the Council's *Media and Communications Policy* and agreed parameters around communication with the media.
- 21.3 We acknowledge our responsibilities under the Council's *Social Media Policy* and *Social Media Guidelines* and the principles that underpin the Council's social media engagement.

## **22. Council Recordkeeping**

- 22.1 Councillors should ensure all records (including email) received privately from the community asking for the Council to take some action are passed to the Governance team for recording and, where appropriate, referral for action.
- 22.2 Councillors should manage their records with great care, and be aware of issues of access, privacy, and security.

## **23. Privacy and Data Protection**

- 23.1 We will maintain the integrity and security of personal and confidential information in our possession for which we have access.
- 23.2 In addition to our general obligations relating to the use of council information we will:
- a. only access confidential information that we have been authorised to access and only do so to exercise our official functions;
  - b. protect confidential information;
  - c. be careful how we use and share personal information provided to us; and
  - d. take reasonable steps to protect personal information from misuse, loss, unauthorised access and disclosure.
- 23.3 Councillors are bound by the Council's *Privacy and Data Protection and Health Records Policy*.

## CHAPTER 4 - COUNCILLOR MUST NOT DISCREDIT OR MISLEAD COUNCIL OR PUBLIC

### Standard 4:

- a. *In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.*
- b. *In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.*

### 24. Improper conduct

Part 6 of the Act creates offences relating to improper conduct by a Councillor including:

- a. Section 123 - Misuse of position;
- b. Section 124 - Directing a member of Council staff; and
- c. Section 125 - Confidential information

These matters are set out below in order to provide a complete picture of the obligations on Councillors and we undertake to comply with the prohibitions on Councillor conduct set out below.

### 25. Misuse of Position (Section 123)

A Councillor must not intentionally misuse their position:

- a. to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
- b. to cause, or attempt to cause, a detriment to the Council or another person.

Circumstances involving the misuse of position by a Councillor include:

- a. making improper use of information acquired as a result of the position they held or hold; or
- b. disclosing information that is confidential; or
- c. directing, or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or
- d. exercising or performing, or purporting to exercise or perform, a power, duty or function that they are not authorised to exercise or perform; or
- e. using public funds or resources in a manner that is improper or unauthorised; or
- f. participating in a decision on a matter in which they have a conflict of interest.

### 26. Directing a member of Council staff (Section 124)

A Councillor must not intentionally direct, or seek to direct, a member of Council staff:

- a. in the exercise of a delegated power, or the performance of a delegated duty or function of the Council; or
- b. in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or
- c. in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under another Act; or
- d. in relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.

## 27. Confidential Information (Section 125)

A Councillor must not intentionally or recklessly disclose information that they know, or should reasonably know, is confidential information.

A Councillor may disclose information that would be considered 'confidential information' if the information that is disclosed is information that Council has determined should be publicly available.

Otherwise, a Councillor may disclose information that they know or should reasonably know is confidential information in the following circumstances:

- a. for the purposes of any legal proceedings arising out of the *Act*;
- b. to a court or tribunal in the course of legal proceedings;
- c. pursuant to an order of a court or tribunal;
- d. to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;
- e. to a Councillor Conduct Panel in the course of a hearing and for the purposes of the hearing;
- f. to a municipal monitor to the extent reasonably required by the municipal monitor;
- g. to the extent reasonably required for any other law enforcement purposes.

For the purposes of the *Act* 'confidential information' means the following information:

- a. Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- b. security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
- c. land-use planning information, being information that if prematurely released is likely to encourage speculation in land values;
- d. law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
- e. legally privileged information, being information to which legal professional privilege or client legal privilege applies;
- f. personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- g. private commercial information, being information provided by a business, commercial or financial undertaking that:
  - i. relates to trade secrets; or
  - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- h. confidential meeting information, being the records of meetings closed to the public under the *Act*;
- i. internal arbitration information, being information specified in Section 145 of the *Act*;
- j. Councillor Conduct Panel confidential information, being information specified in Section 169 of the *Act*;
- k. information prescribed by regulations to be confidential information for the purposes of the *Act*; and
- l. information that was confidential information for the purposes of Section 77 of the *Local Government Act 1989*.

## 28. Conflict of Interest

If a Councillor has a general or material conflict of interest in a matter which is to be considered or discussed at a meeting of the Council, a delegated committee, a community asset committee or a meeting held under the auspices of the Council, they must disclose the conflict of interest in accordance with the provisions of the Act and the Council's Governance Rules (unless any of the exemptions apply).

We agree to abide by the procedures for the disclosure of a conflict of interest by a Councillor in accordance with Sections 130 and 131 of the Act as set out in the Council's *Governance Rules*.

## 29. Gifts and Bribery

Councillors may be offered gifts, benefits and hospitality during the course of their duties ranging from token offers which are generally considered a basic courtesy to non-token offers that risk impartiality and integrity if accepted.

We have a duty to place the public interest above our private interests when carrying out our official functions and will not accept offers from those about whom we are likely to be called on to make business decisions.

We will comply with the *Councillor Gift Policy* and any other policies and procedures adopted by Council from time to time relevant to the acceptance of gifts.

We will:

1. **not seek or solicit** gifts, personal benefits or hospitality for ourselves or others by virtue of our position or in appreciation of services rendered;
2. **refuse** all gifts, benefits and hospitality that—
  - are money (of any amount), items used in a similar way to money or items easily converted to money, eg tokens, gift cards, vouchers;
  - give rise to an actual, perceived or potential conflict of interest;
  - if accepted is likely to influence them, or be perceived to influence them, in the course of their duties;
  - may adversely affect their standing as a public official or which may bring the Council into disrepute;
  - do not have a legitimate business benefit; or
  - extend to their relatives or friends;
3. **declare all** offers of gifts, benefits and hospitality, regardless of their value, and regardless of whether or not they have been accepted or refused; and
4. **transfer** all ceremonial and official gifts, including any gift of cultural significance or significant value accepted on behalf of the Council, irrespective of value, to the Manager Governance & Civic Support to declare in the register. All official, ceremonial and other significant gifts belong to Council.

We acknowledge that all offers of gifts are registered in the Council's Gift Register which will be published on the Council's website.

### Anonymous Gifts

We acknowledge that it is an offence for a Councillor to accept, directly or indirectly, an anonymous gift that has a value of or more than the gift disclosure threshold (currently \$500).

A Councillor is not in breach of this clause if they receive an anonymous gift that exceeds the gift disclosure threshold, provided the gift is disposed of to the Council within 30 days of receipt.

### **Bribery**

We will refuse attempted bribery or suspected inducements and report the bribery offer to the Director Corporate Services who will report any potential criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission (IBAC). Where the circumstances fall within the parameters of the *Public Interest Disclosures Act 2012* a disclosure may be made in the appropriate manner.

### **Annual Returns**

We will declare particulars of any gift of or above the amount or value of \$500 in our biannual personal interests returns.

### **Campaign Donation Returns**

We will declare details of any gifts received during the donation period to be used for or in connection with an election campaign the amount or value of which is equal to or exceeds the gift disclosure threshold.

## **30. Communication**

We recognise that as representatives of the local community, we have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.

We undertake to comply with the Council's media policies and respect the functions of the Mayor and *Chief Executive Officer* to be the spokespersons for the *Council* in accordance with our policy.

We acknowledge that individual Councillors are entitled to express their personal opinions through the media. Where we choose to do so, we will make it clear that such comment is a personal view and does not represent the position of the Council. We undertake to ensure that any such comment is devoid of comments that could reasonably be construed as being derogatory, offensive or insulting to any person.

## **31. Fraud and Corruption**

31.1 We undertake to meet our responsibilities outlined in the *Council's Fraud Prevention Policy*. The Council is responsible for the good governance of the municipality and for the protection of public money and assets and the Council's reputation. It is responsible for setting the highest standards of honesty and integrity in the provision of services to the community and the management of the organisation.

31.2 The Council will ensure that the administration has appropriate resources and measures in place to detect and prevent fraud and or corruption.

## **32. Use of Council Resources**

We commit to using Council resources effectively and economically. We will—

- a. maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role and will comply with any Council policies applying to their use;
- b. ensure any expense claims that we submit are in compliance with the relevant legislative provisions and Council policy;
- c. not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
- d. not use public funds or resources in a manner that is improper or unauthorised.

### 33. Core Values

We are committed to providing a seamless citizen engagement experience. We undertake to give effect to the Council's core values, which are:

**Responsive:** we will engage with all stakeholders and listen and respond appropriately to your needs.

**Innovative:** we will be positive and endeavour to find solutions and choice in our service delivery.

**Continuous Improvement:** we will continually strive, within our means, for best possible practice and improvement in service delivery.

**Prompt:** we will respond promptly, within agreed timeframes, to all requests.

**Respectful:** we will be respectful and conscious of diversity and make available information and services in an accessible and inclusive manner.

It is the personal responsibility of Councillors to comply with the Standards of Conduct and the other provisions of the Code of Conduct and to regularly review their personal circumstances and conduct with this in mind.

### 34. Personal Dealings with Council

When we deal with our Council in our private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) we do not expect nor will we request preferential treatment in relation to any such private matter. We will avoid any action that could lead Council staff or members of the public to believe that we are seeking preferential treatment.

### 35. Land use planning, development assessment and other regulatory functions

We will ensure that land use planning, development assessment and other regulatory decisions are properly made and that all parties are dealt with fairly, with the absence of bias. We will avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions, comply with relevant policies and not meet with applicants and objectors unless accompanied of Planning staff.

### 36. Review of Code of Conduct

36.1 Council may review or amend the Code of Conduct at any time.

36.2 Council must review the Code of Conduct within 4 (four) months after a general election.

36.3 A council can only amend the Councillor Code of Conduct by a formal resolution of the Council passed at a meeting by at least two-thirds of the total number of Councillors elected to the Council.

## CHAPTER 5 - STANDARDS DO NOT LIMIT ROBUST POLITICAL DEBATE

### **Standard 5:**

*Nothing in the Standards of Conduct is intended to limit, restrict or detract from robust political debate in a democracy.*

## APPENDIX - DISPUTES BETWEEN COUNCILLORS

When an allegation of a breach of the Standards of Conduct is alleged, we agree that the Councillors who are party to the allegation are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. If, after these endeavours have been exhausted, the matter still remains unresolved, the Councillors may have recourse to any or all of the internal resolution processes set out in this Code.

We recognise that participation in direct negotiation or mediation is voluntary and we are not obliged to agree to either of them, but will endeavour to resolve allegations without resorting to the mandatory internal arbitration process.

### **37. Internal resolution (voluntary)**

Where Councillors who are in dispute have not been able to resolve the dispute between them, either (or both) party (parties) may—

- request a “direct negotiation” where the Mayor is to convene a meeting of the parties to facilitate a discussion and provide guidance; or
- make an application to the Councillor Conduct Officer for “external mediation” where the dispute will be referred to mediation, whether or not the dispute has been the subject of an application for direct negotiation.

A dispute referred for “direct negotiation” or “external mediation” may relate to—

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- an alleged breach of the Code of Conduct, including a breach of the prescribed Standards of Conduct noting that a council may allow alleged breaches of the Standards of Conduct to be resolved by informal processes.

The Councillor requesting the “direct negotiation” meeting or “external mediation” is to provide the name of the other Councillor and the details of the dispute in writing. The written request is to indicate that it is for a “direct negotiation” or “external mediation” dispute resolution process and must:

- specify the name of the Councillor the subject of the request;
- In the case of an alleged contravention of the Code of Conduct, specify the provision(s) of the Code of Conduct that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the request is made by a group of Councillors; and
- be signed and dated by the requestor or the representative of the requestor.

The requestor is to notify the other party of the request and provide him or her with a copy of the written request either at the same time as it is provided to the Mayor, in the case of a request for “direct negotiation”, or Councillor Conduct Officer, in the case of a request for “external mediation”, or as soon as practicable thereafter.

### ***Direct negotiation***

Where a request for “direct negotiation” is made, the Mayor is to ascertain whether or not the other party is prepared to attend a “direct negotiation” meeting.

Direct negotiation is a voluntary process. If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. No further action is required of the Mayor. The requestor can then decide whether to escalate the matter either to "external mediation" or, in the case of an alleged breach of the Standards of Conduct, the internal arbitration process.

If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within five working days of receiving the consent of the other party.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of them, including in relation to the role of a Councillor under Section 28 of the Act, and the observation of the Code of Conduct.

The Mayor is to document any agreement reached at the "direct negotiation" meeting. Copies of the agreement are to be provided to both parties.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the requestor can decide whether to escalate the matter either to "external mediation" or, in the case of an alleged breach of the Standards of Conduct, the internal arbitration process.

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor (if any) or the immediate past Mayor. The Deputy Mayor or the immediate past Mayor will perform the functions ascribed to the Mayor.

### ***External mediation***

Where a request for "external mediation" is made, the Councillor Conduct Officer is to ascertain whether or not the other party is prepared to attend "external mediation". If the other party agrees to participate in "external mediation", the Councillor Conduct Officer is to advise the requestor, the Mayor and the Chief Executive Officer forthwith.

The Chief Executive Officer is to engage the services of an "external mediator" to conduct the mediation at the earliest practicable opportunity.

The mediator is to document any agreement reached at the mediation. Copies of the agreement are to be provided to both parties.

If the parties cannot resolve the dispute at the mediation and the dispute remains unresolved, the requestor can decide whether to escalate the matter, in the case of an alleged breach of the Standards of Conduct, to the internal arbitration process

"Direct negotiation" and "external mediation" are optional dispute resolution processes. Accordingly, Councillors may decline to participate or withdraw from participating at any time. Declining to participate in, or withdrawing from, "direct negotiation" or "external mediation" does not constitute a contravention of the Code of Conduct.

### **38. Internal Resolution Procedure by Independent Arbiter (mandatory)**

A breach of the Standards of Conduct constitutes 'misconduct' for the purposes of the Act and may be referred to an arbiter for determination. The process for internal arbitration is prescribed by Part 6 of the Act and r 11 of the Regulations.

An application for internal arbitration may be made by:

- The Council following a resolution of the Council; or
- A Councillor or a group of Councillors.

An application must be made within three months of the alleged misconduct occurring.

Internal arbitration may be commenced either after the voluntary processes described above proves unsuccessful in resolving the allegation, or as the first step in an application.

Councillors agree to follow the process specified in this Code when applying for internal arbitration.

### ***The application***

An application for internal arbitration must be submitted to the Councillor Conduct Officer and specify the:

- name of the Councillor alleged to have breached the Standards of Conduct;
- clause(s) of the Standards of Conduct that the Councillor is alleged to have breached; and
- particular misconduct, or behaviour, that the Councillor is alleged to have engaged in that resulted in the breach.

If an application received by the Councillor Conduct Officer does not meet the above requirements, the Councillor Conduct Officer will return it to the Councillor submitting it with a brief statement of how the application is deficient.

A Councillor may revise and resubmit to the Councillor Conduct Officer a deficient application, provided that the Councillor submits the revised application no later than 3 months after the alleged breach of the Standards of Conduct occurred (see Section 143(3) of the Act).

### ***Process on receiving an application***

On receiving an application from a Councillor which meets the requirements specified above, the Councillor Conduct Officer will:

- provide a copy of the application to the Councillor who is the subject of the allegations;
- refer the application to the Principal Councillor Conduct Registrar;
- notify the Councillors involved in the application of the referral;
- notify the CEO of the referral (for the CEO's information only);
- await advice from the Principal Councillor Conduct Registrar about the application; and
- take such steps as are necessary to give effect to the Principal Councillor Conduct Registrar's advice, in accordance with any instructions received.

Councillors recognise that an application for internal arbitration for an allegation of a breach of the Standards of Conduct will only be accepted by the Principal Councillor Conduct Registrar, and an arbiter will only be appointed, if the Principal Councillor Conduct Registrar is satisfied that:

- the application is not frivolous, vexatious, misconceived or lacking in substance; and
- there is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct.

It is for the Councillor or Councillors submitting an application to ensure that the application meets these requirements.

If the Principal Councillor Conduct Registrar is satisfied that an application for internal arbitration should be accepted, the Principal Councillor Conduct Registrar will appoint an arbiter from a panel list compiled by the Secretary to the Department of Jobs, Precincts and Regions.

In conducting an arbitration the arbiter must:

- ensure that the parties involved are given an opportunity to be heard;
- ensure that a Councillor who is a party does not have a right to representation, unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly;
- conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and
- ensure that the hearing is not open to the public.

Additionally, in conducting an arbitration the arbiter:

- may hear each party to the matter in person or solely by written or electronic means of communication;
- is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit;
- may at any time discontinue the hearing if the arbiter considers that the:
  - o application is vexatious, misconceived, frivolous or lacking in substance; or
  - o Councillor making the application, or representing the group of Councillors making the application, has not responded, or has responded inadequately, to a request for further information.

If, at the completion of the internal arbitration process, the arbiter determines that a Councillor has breached the Standards of Conduct, the arbiter may make a finding of misconduct against the Councillor and impose any one or more of the following sanctions:

- direct the Councillor to make an apology;
- suspend the Councillor from the office of Councillor for a period specified by the arbiter (not exceeding one month);
- direct that the Councillor be removed from any position where the Councillor represents Council for the period determined by the arbiter;
- direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter; and/or
- direct a Councillor to attend or undergo training or counselling specified by the arbiter.

The arbiter must provide a written copy of the arbiter's findings and statement of reasons to:

- Council;
- the applicant(s) and the respondent; and
- the Principal Councillor Conduct Registrar.

A copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the arbiter's findings and statement of reasons are provided. If the arbiter's decision and statement of reasons contain any confidential information, the confidential information must be redacted before it is tabled.

Councillors recognise that a failure to participate in and comply with the internal arbitration process or a direction given to the Councillor by an arbiter is 'serious misconduct' for the purposes of the Act. Allegations of 'serious misconduct' are heard by a Councillor Conduct Panel.