



# Yarra Ranges Council Model Councillor Code of Conduct

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Adopted by Council:	(TBC April 2025)
Responsible Officer:	Director Corporate Services
Department:	Organisational Performance & Integrity
Contact Officer:	Coordinator Governance and Integrity

## Version Control

Version 3.0	Approved by Council
Responsible Officer:	Director Corporate Services
Contact Officer:	Coordinator Governance & Integrity
Review:	<p>The Councillor Code of Conduct may be reviewed or amended at any time.</p> <p>Council must review and adopt the Councillor Code of Conduct within the period of 4 months after a general election.</p>

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## 1. Introduction

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The Councillors of Yarra Ranges Council (**Council**) have an obligation to abide by the Model Councillor Code of Conduct (**Model Code**) that was introduced on 26 October 2024 as established under the *Local Government Act 2020* and the *Local Government (Governance and Integrity) Amendment Regulations 2024*,

The Model Code provides the minimum standards of conduct and behaviour imposed on all Victorian Councillors. Its purpose is to ensure that Councillors can effectively perform their duties and functions, supporting the Council in its overriding role to provide good governance for the benefit and wellbeing of the municipal community

Council recognises the unique character of our municipality and our unwavering commitment to integrity. As such, we have chosen to maintain a Yarra Ranges specific Councillor Code of Conduct (**Code**) that is to be read in addition to the Model Code.

Through this tailored approach, we aim to maintain the highest levels of integrity, foster public trust, and ensure that our Council's decision-making processes are conducted with the highest level of transparency.

- 1.1 The role of Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community. Council provides good governance if it performs its role in accordance with the overarching governance principles and supporting principles included at sections 9 and 28 of the [Local Government Act 2020](#) (**Act**).
- 1.2 Section 139 of the Act requires all Councillors to observe the Model Code that sets out the minimum standards of conduct expected to be observed by Councillors when undertaking their duties as a councillor.
- 1.3 The Code also supports the development of good working relationships:
  - (i) between Councillors.
  - (ii) with the Chief Executive Officer and members of Council staff.
  - (iii) with the municipal community.
- 1.4 Councillors should recognise the importance of maintaining the highest levels of integrity and ethical behaviour. The Code assists Councillors to:
  - (a) Understand and comply with the standards of conduct that are expected of them.
  - (b) Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence.
  - (c) Act in a way that enhances public confidence in the integrity of local government.
- 1.5 By adopting the Code, a Councillor commits to:
  - (a) Transparent and accountable governance.
  - (b) Honest, fair, and respectful dealings with the organisation and the municipal community.
  - (c) Work with fellow Councillors to achieve the best outcomes in the interests of the municipal community.

- (d) Respect for the decision-making process of Council.
  - (e) Compliance with legislation, local laws, rules, policies, and procedures.
- 1.6 Circumstances may arise where administrative or inconsequential amendments to this Code are required. Where such an amendment does not materially alter the Code, it may be updated by the Chief Executive Officer. A record of the change will be documented, and the version number updated.
- 1.7 Any change that materially alters the Code can only be made by a formal resolution of the Council with two thirds majority of Councillors.
- 1.8 If there is any inconsistency between the Model Councillor Code of Conduct and Council's additional General Conduct Obligations, the Model Code of Conduct prevails.

## **2 Model Councillor Code of Conduct**

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- 2.1 These Standards are extracted from Schedule 1 of the *Local Government (Governance and Integrity) Amendment Regulations 2024*.

### **1. Performing the Role of Councillor**

A Councillor must do everything reasonably necessary to ensure that they perform the role of a Councillor effectively and responsibly, including by:

- (a) Representing the interests of the municipal community by considering and being responsive to the diversity of interests and needs of the municipal community.
- (b) Being fit to perform the role of a Councillor when acting in that capacity or purporting to act in that capacity.
- (c) Diligently using Council processes to become informed about matters which are subject to Council decisions.
- (d) Not performing or purporting to perform any responsibilities or functions of the Chief Executive Officer.
- (e) Acknowledging and supporting the Mayor in the performance of the role of Mayor, including by:
  - (i) Respecting and complying with a ruling of the Mayor as the chair of Council meetings (unless dissenting from the ruling in accordance with Council's Governance Rules).
  - (ii) Refraining from making public comment, including to the media, that could reasonably be perceived to be an official comment on behalf of the Council where the Councillor has not been authorised by the Mayor to make such a comment.
- (f) Undertaking the mandatory induction training and professional development or training activities the Chief Executive Officer deems reasonably necessary in order to effectively perform their role.

### **2. Behaviours**

- (1) A Councillor must treat others, including other Councillors, members of Council staff and members of the public, with dignity, fairness, objectivity, courtesy, and respect, including by:

- (a) Not engaging in demeaning, abusive, obscene, or threatening behaviour, including where the behaviour is of a sexual nature.
  - (b) Not engaging in behaviour that intentionally causes or perpetuates stigma, stereotyping, prejudice or aggression against a person or class of persons.
  - (c) Not engaging in discrimination or vilification.
  - (d) Supporting the Council, when applying Council's Community Engagement Policy, to develop respectful relationships and partnerships with Traditional Owners, Aboriginal community-controlled organisations, and the Aboriginal community.
  - (e) Supporting the Council in fulfilling its obligations under the Act or any other Act (including the [Gender Equality Act 2020](#)) to achieve and promote gender equality.
  - (f) Ensuring their behaviours and interactions with children are in line with Council's policies and procedures as a child safe organisation and obligations under the [Child Wellbeing and Safety Act 2005](#) to the extent that they apply to Councillors.
  - (g) In considering the diversity of interests and needs of the municipal community, treats all persons with respect and having due regard for their opinions, beliefs, rights, and responsibilities.
- (2) A Councillor, as an individual at the workplace, must take reasonable care for their own health and safety and take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons by:
- (a) Adhering to applicable systems and policies put in place by the Chief Executive Officer to manage risks to health and safety in the workplace.
  - (a) Complying, so far as the Councillor is reasonably able, with all reasonable instruction that is given by the Chief Executive Officer to manage risks to health and safety.
- (3) A Councillor must act in accordance with any policies, practices and protocols developed and implemented under section 46 of the Act that support arrangements for interactions between members of Council staff and Councillors.
- (4) A Councillor must act in accordance with any policies, practices and protocols developed deemed appropriate by the Chief Executive Officer, and where a formal resolution of Council is passed.

### **3. Good Governance**

A Councillor must comply with the following Council policies and procedures required for delivering good governance for the benefit and wellbeing of the municipal community:

- (a) Council's Expenses Policy adopted and maintained under section 41 of the Act.
- (b) Council's Governance Rules developed, adopted, and kept in force by the Council under section 60 of the Act, including in relation to:

- (i) Conduct in Council meetings or meetings of delegated committees.
  - (ii) Requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication.
  - (iii) Council's election Period Policy included in Council's Governance Rules under section 69 of the Act, including in ensuring that Council resources are not used in a way that is intended to influence, or is likely to influence, voting at a general election or by-election.
- (c) Council's Gifts, Benefits and Hospitality Policy adopted under section 138 of the Act.
- (d) Any directions of the Minister issued under section 175 of the Act.

#### **4. Integrity**

- (1) A Councillor must act with integrity, exercise reasonable care and diligence and take reasonable steps to avoid any action which may diminish the public's trust and confidence in the integrity of local government, including by:
- (a) Ensuring that their behaviour does not bring discredit upon the Council.
  - (b) Not deliberately misleading the Council or the public about any matter related to the performance of their public duties.
  - (c) Not making Council information publicly available where public availability of the information would be contrary to the public interest in accordance with the Public Transparency Principles set out in section 58 of the Act.
- (2) A Councillor must not, in their personal dealings with Council (for example as a ratepayer, recipient of a Council services or planning applicant), expressly or impliedly request preferential treatment for themselves or a related person or entity.

#### **5. The Model Councillor Code of Conduct does not limit robust Public Debate**

Nothing in the Model Councillor Code of Conduct is intended to limit, restrict, or detract from robust public debate of issues in a democracy.



## **PART 1: Treatment of Others**

### **3 General Conduct Obligations**

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- 3.1 Councillors must act lawfully, fairly, and honestly and not conduct themselves in a manner that:
- (a) Is likely to bring Council or other Councillors into disrepute.
  - (b) Is contrary to the requirements of the Act or to Council's adopted protocols and policies.
  - (c) Is improper or unethical.
  - (d) Is an abuse of power.
  - (e) Comprises or involves intimidation or verbal abuse.
  - (f) Involves the misuse of their position to obtain a private benefit.
  - (g) Constitutes harassment or bullying behaviour under the Code, or that is unlawfully discriminatory.
  - (h) Involves engaging in unlawful behaviours, whether within or outside of their Council duties, that may impact their ability to fulfill their responsibilities as a Councillor or damage public trust in the Council.

#### **Honesty**

- 3.2 Councillors have a duty to act honestly. This involves:
- (a) Making decisions solely in the public interest.
  - (b) Avoiding statements, whether made verbally or in writing, or actions that will or are likely to mislead or deceive.
  - (c) Acting lawfully and in accordance with the trust placed in them as elected representatives.

#### **Integrity**

- 3.3 Councillors have a duty to act with integrity. This involves:
- (a) Impartially exercising their responsibilities in the interests of the municipal community.
  - (b) Abiding by relevant legislation and Council policies, protocols, and procedures.
  - (c) Not placing themselves under any financial or other obligation to any individual, interest group or organisation that might reasonably be thought to influence them in the performance of their duties as Councillor.
  - (d) Avoiding conflicts between their public duties as a Councillor and their private interests and obligations.
  - (e) Declaring any conflicts of interest as required by section 130 and 131 of the Act and taking steps to manage any conflicts arising in such a way that protects the public interest.
  - (f) Endeavouring to ensure that Council's resources are used prudently and solely in the public interest.

#### **Fairness and Equity**

- 3.4 Councillors have a duty to act with fairness and equity. This involves:
- (a) Considering issues consistently, promptly, and fairly.

- (b) Dealing with matters in accordance with established procedures, in a non-discriminatory manner.
  - (c) Taking all relevant facts known to them, or that they should be reasonably aware of, into consideration and have regard to the merits of each case.
  - (d) Not taking irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clause 3.4 of the Code.

### **Harassment and Discrimination**

- 3.6 Councillors must take positive action to eliminate discrimination, harassment, vilification, and victimisation in accordance with all relevant anti-discrimination laws. Including but not limited to the [Equal Opportunity Act 2010](#) Councillors must not engage in, support, or condone any form of unlawful discrimination, harassment, vilification, or victimisation against others on the grounds of any protected attribute, including:
- age
  - disability
  - race (including colour, national or ethnic origin or immigration status)
  - gender
  - pregnancy
  - sexual orientation
  - marital or relationship status
  - family responsibilities or breastfeeding
  - gender identity or intersex status
  - political, religious, or other affiliation

Sexual harassment is unlawful and will not be tolerated under any circumstances. In performing their role, Councillors must take positive action to eliminate sexual harassment.

### **Human Rights and Equal Opportunity**

- 3.7 In performing their role Councillors, must take positive action to support Council in fulfilling its obligation to achieve and promote gender equality.
- 3.8 Councillors should understand the human rights that are protected under the [Victorian Charter of Human Rights and Responsibilities Act 2006](#) and undertake to exercise their duties in a manner that is compatible with the rights set out in the Charter. This undertaking extends to relationships, including with other Councillors, the Chief Executive Officer, and members of Council staff, as well as any member of the public with whom a Councillor may have contact, and any decisions they participate in as a Councillor.

### **Bullying, Vilification, and Victimisation**

- 3.9 Councillors are prohibited from using behaviours that a reasonable person may perceive as bullying, vilification, and victimisation towards others.
- 3.10 Councillors will support a safe workplace and will not engage in repeated unreasonable behaviour toward another Councillor or member of Council staff

that creates a risk to the health and safety of that other Councillor or member of Council staff.

For the purposes of the Code, “bullying behaviour” is any behaviour in which:

- (e) A person or a group of people repeatedly behaves unreasonably towards another person or a group of persons; and
- (f) the behaviour creates a risk to health and safety.

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.
- (f) Displaying offensive material.
- (g) Pressure to behave in an inappropriate manner.

### **Interacting with Children and Young People**

- 3.11 Council prides itself on being a child safe organisation and has implemented a range of policies, procedures, and initiatives to keep children and young people (any child or young person under the age of 18) safe. Councillors must:
- (a) Maintain the highest standards of conduct in their attitude, behaviour and interactions with children and young people.
  - (b) Take all reasonable steps to protect children and young people from harm, including complying with Council’s obligations under State and Federal legislation (including the [Victorian Child Wellbeing and Safety Act 2005](#)) and completing appropriate Working with Children Checks.
  - (c) Support and maintain Council’s commitment to the safety and wellbeing of children and young people and including through any decision they participate in as a Councillor.
  - (d) Undertake training, through Council, in order to obtain an understanding of the duties and obligations imposed by the 11 Victorian Child Safe Standards and their application to the duties of a Councillor.

### **Health and Safety**

- 3.12 Councillors are required to comply with the [Occupational Health and Safety Act 2004](#) and their responsibilities under any policies or procedures adopted by Council to ensure workplace health and safety. Specifically, this involves: Taking reasonable care for their own health and safety.
- (a) Taking reasonable care that their acts or omissions do not adversely affect the health and safety of other persons.
  - (b) Complying, 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 Council to ensure workplace health and safety.
  - (c) Cooperating with any reasonable policy or procedure of Council relating to workplace health or safety that has been notified to Council staff.

- (d) Reporting accidents, incidents and near misses to the Chief Executive Officer, or such other staff member nominated by them, and taking part in any incident investigations.

## **4 Promoting Good Working Relationships**

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- 4.1 The Mayor plays a critical leadership role in promoting good working relationships and does this by setting high standards for relationships between themselves and all others. This includes relationships between:
- (a) The Mayor and the Chief Executive Officer.
  - (b) The Mayor and Councillors, and among Councillors collectively.
  - (c) Council and the Chief Executive Officer.
  - (d) Councillors and members of Executive Leadership team and where appropriate Council staff.

### **Mayor and the Chief Executive Officer**

- 4.2 This is an important relationship that will help in the smooth running of Council. The Mayor and Chief Executive Officer must work closely and put their energy into achieving a good working relationship, which should be characterised by:
- (a) Respect, consistency, openness, and good communication.
  - (b) Understanding that each has different roles and authorities.
  - (c) Aiming to facilitate involvement and inclusion amongst Councillors and the wider organisation.

### **Mayor and Councillors**

- 4.3 A good relationship between the Mayor and Councillors will help in working together to represent, and be responsive to, the diversity of interests and needs of the municipal community. It is important that the role of the Mayor is respected and that they:
- (a) Work to facilitate an inclusive approach to decision making and involvement in Council activities.
  - (b) Work with the Chief Executive Officer to ensure that Councillors receive necessary training opportunities.
  - (c) Are a source of assistance for Councillors.
  - (d) Take responsibility, in collaboration with the Chief Executive Officer, for facilitating resolution of any disputes between Councillors.
- 4.4 Similarly, Councillors should recognise that:
- (a) Good working relationships are important for them to succeed individually and collectively.
  - (b) While they may have different views; they should treat each other with respect and courtesy.
  - (c) Disputes should be expressed in a way that causes no detriment to individual Councillors or Council as a whole,
  - (d) They must not undermine each other, either within the organisation or in public.

### **Council and the Chief Executive Officer**

- 4.5 A good relationship between Councillors and the Chief Executive Officer is essential for Council to provide good governance. Councillors should recognise that:
- (a) The relationship is based on respect and a good understanding of each other's roles.
  - (b) A good relationship can also develop relationships between Councillors and other members of Council staff.
  - (c) The Chief Executive Officer can be a valuable source of advice and is often able to assist in addressing constituent issues.
  - (d) Performance management of the Chief Executive Officer is important to the organisation achieving its goals.

### **Councillors and Members of Council Staff**

- 4.6 Relationships between Councillors and members of Council staff should be based on a mutual understanding and respect for each other's roles.
- 4.7 Interaction between Councillors and members of Council staff should be undertaken in accordance with clause 10 of the Code.

## **PART 2: Performing the Role of the Councillor**

### **5 Roles and responsibilities**

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#### **The Mayor**

- 5.1 Under section 18 of the Act, 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.
  - (e) Promote behaviour among Councillors that is consistent with the Model 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.
  - (i) Perform civic and ceremonial duties on behalf of the Council.

#### **Councillors**

- 5.2 Under section 28 of the Act, the role of every Councillor is to:
- (a) Participate in the decision-making of the Council.
  - (b) Represent the interests of the municipal community in that decision making.
  - (c) Contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.
- 5.3 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 Oath or Affirmation of Office.
  - (e) Act in accordance with the Model Councillor Code of Conduct
  - (f) Act in accordance with Council's Governance Rules.
  - (g) Comply with Council procedures required for good governance.
  - (h) It is expected that all Councillors will comply with the general conduct obligations in the performance of their roles and responsibilities as outlined within this Code.
- 5.4 Under section 28(3) of the Act, the role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer.

#### **The Chief Executive Officer**

- 5.5 Section 46 of the Act outlines the responsibilities of the Chief Executive Officer, and these include, but are not limited to:

- (d) Supporting the Mayor and the Councillors in the performance of their roles.
- (e) Ensuring the effective and efficient management of the day-to-day operations of the Council.

## **6 Induction and training**

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- 6.1 It is important that Councillors understand their statutory obligation to complete training which includes.
  - (a) Councillor induction training within four months after the day they take the Oath or Affirmation of Office and make a written declaration to the Chief Executive Officer that they have completed this.
  - (b) Professional development training annually to ensure that they understand their role and responsibilities.
- 6.2 If a Councillor is unable to attend an induction session, they should provide a reason for their non-attendance to the Chief Executive Officer. A replacement session will then be arranged for them to attend.

## **7 Fair and Transparent Decision-Making**

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Fair and transparent decision-making is essential to good governance. Informed decision-making, and ultimately good governance, is achieved through the exchange of views and constructive respectful debate by Councillors in the forum of the Council Chamber.

### **Representation of Community Interests**

- 3.1 Councillors are required to represent the interests of the municipal community in their decision making and, in doing so, consider the diversity of interests and needs of the whole municipal community.

### **Due diligence**

- 7.1 Councillors should:
  - (a) Exercise reasonable care and due diligence to ensure they have the information required to make an informed decision on a matter before them. This includes attending Forum briefings, together with reading and familiarising themselves with documents for consideration at Council and other meetings.
  - (b) Take all reasonable steps to ensure they keep up to date with Council related matters, through regular monitoring of their Council email account and the Councillor Portal.
  - (c) Ensure that they are responsive to communication from members of the community, as well as from members of Council staff, to enable the efficient and effective operation of Council business.

### **Governance Rules**

- 7.2 In demonstrating a commitment to fair and transparent decision making, Councillors are required to adhere to the Governance Rules, adopted by Council in accordance with section 60 of the Act.

## **Conduct at Meetings**

- 7.3 Councillors should ensure that they actively and openly participate in the decision-making process at Council and delegated committee meetings.
- 7.4 Councillors will treat each other with respect and dignity, avoiding abusive and derogatory language and intimidatory behaviour. The Mayor will assist and support individual Councillors to work together constructively and effectively.
- 7.5 Formal Council decisions are the result of the vote of an absolute majority of Councillors. Not all decisions are unanimous and individual Councillors are entitled to their own opinions. Without compromising the rights of individual Councillors to maintain their opposition to a Council decision, the decision made by an absolute majority of Councillors through the democratic process must be accepted and respected.
- 7.6 A Councillor cannot direct another Councillor on how to vote on any decision before the Council Meeting.

## **Binding Caucus Votes**

A binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before Council or a delegated committee, irrespective of the personal views of individual members of the group on the merits of the matter before Council or delegated committee

- 7.7 Councillors must not participate in binding caucus votes in relation to matters to be considered at a Council or delegated committee meeting.
- 7.8 Clause 7.7 does not:
- (a) Prohibit Councillors from discussing a matter before Council or delegated committee prior to considering the matter in question at a Council or delegated committee meeting, or from voluntarily holding a shared view with other Councillors on the merits of a matter.
  - (b) Apply to a decision to elect the Mayor or Deputy Mayor, or to nominate a person to be a member of a committee or a representative of Council on an external body.

## **8 Communicating on behalf of Council**

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- 8.1 As representatives of the local community, Councillors have a responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.
- 8.2 The Mayor is the official spokesperson for Council. Any comment made by them will be deemed by the community to represent the views or position of Council on a particular matter. Accordingly, any official public comment made by the Mayor must reflect Council's position, regardless of their personal views.



- 8.3 Although it is acceptable for Councillors to publicly state that they did or did not vote in favour of any Council decision, this should be done in a manner that is respectful of Council's decision, is stated clearly as their opinion and not that of Council, and that does not undermine the authority or public perception and standing of Council or any other Councillor.
- 8.4 Notwithstanding clause 8.2, Councillors are entitled to express personal opinions through the media. Where they choose to do so, they must make clear that any such comment:
- (a) Is a personal view and does not represent the official position of Council.
  - (b) Is not derogatory, offensive, or insulting to any person.
  - (c) Does not undermine the authority or public perception and standing of the Mayor, Council or any other Councillor.

## **9 Support and Resources for Councillors in the Delivery of their Role**

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### **Access to Information**

- 9.1 The Chief Executive Officer is responsible for ensuring that all Councillors can access information necessary for the performance of their role. Should a Councillor be refused access to Council information, the Chief Executive Officer will provide the reason for their decision.
- 9.2 Councillors will treat Council information appropriately, by:
- (a) Not using information gained by virtue of their position for any purpose other than to exercise their role as a Councillor.
  - (b) Respecting Council's policies in relation to public comments and communications with the media.
  - (c) Recognising the requirements of the [Health Records Act 2001](#), [Privacy and Data Protection Act 2014](#) and [Freedom of Information Act 1982](#) regarding the access, use and release of personal information.

### **Confidential Information**

- 9.3 Councillors must exercise caution when dealing with confidential information and must not intentionally or recklessly disclose information that they know, or should reasonably know, is confidential. This does not apply if the information that is disclosed is information that the Council has determined should be publicly available, or, if any of the circumstances in section 125(3) of the Act apply.
- 9.4 Councillors must dispose of confidential information securely and this should be undertaken in line with the provisions outlined at clause 17.4 of the Code.

### **Use of Council Resources**

- 9.5 Councillors should use Council resources ethically, effectively, efficiently, and carefully in performing their role, and must not use them for private purposes unless this use is lawfully authorised, and proper payment is made where appropriate. Councillors must:

- (a) Maintain adequate security over Council property, facilities and resources provided to assist in performing their role and comply with any Council policies applying to their use.
- (b) Be conscientious in their use of council property, including buildings, intellectual property, official services, facilities, technology, and electronic devices and must not permit their misuse by any other person or body.
- (c) Avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for their benefit or the benefit of any other person or body.
- (d) Not use Council resources (including council staff), property or facilities for the purpose of assisting their election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property, or facility.
- (e) Not use Council letterhead, logos, email, social media, or other information that could give the appearance it is official Council material:
  - (i) for the purpose of assisting their election campaign or the election campaign of others, or
  - (ii) for other non-official purposes.

9.5.1 Any property of Council must not be converted to personal use unless properly authorised.

## **10 Interaction between Councillors and members of Council staff**

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10.1 When seeking to engage with members of Council staff, other than dealing with Council in their private capacity, Councillors should direct any requests in the first instance to the:

- (a) Chief Executive Officer.
- (b) Appropriate Director.
- (c) Appropriate Managers.

10.2 Noting the preference for the majority of Councillor interaction to come through the Senior Officers mentioned in clause 10.1, Councillors may engage directly with Executive Officers on specific matters as required.

10.3 Notwithstanding clause 10.1, Councillors may also engage with members of the Governance team or Communications Executive Officer and direct any appropriate enquiries or requests in line with the requirements of clause 10.1 of the Code. If deemed necessary and appropriate Director may direct Council staff to engage directly with Councillors, especially in communicating complex, sensitive or technical matters such as engineering, planning or land use inquiries.

10.4 The primary role of both Councillors and members of Council staff is to serve the public to the best of their abilities. To do this most effectively, Councillors and members of Council staff need to work together in a manner which combines their skills, knowledge and experience in a way that produces the best outcomes for individuals and communities, and which is fair, sustainable, and responsive.

- 10.5 Although the roles of Councillors and members of Council staff are complementary, they are also distinct. The underlying principles which determine relationships between Councillors and members of Council staff are:
- (a) The commitment to the common aim of providing the municipal community with the best possible quality of life through the provision of excellent services, leadership, and advocacy.
  - (b) The acceptance of and overt demonstration of mutual courtesy and respect.
  - (c) The awareness and acceptance of their different roles, duties, and responsibilities.
  - (d) The acceptance of the need to ask for advice from members of Council staff and for that advice to be timely, accurate, and impartial.
  - (e) The acceptance of the principles of fairness, consistency, transparency in the conduct of business.
  - (f) The need to comply with the laws, regulations, policies and procedures relating to the conduct of Council business.
  - (g) The need to demonstrate ethical decision making and implementation.
  - (h) The need to avoid actual or perceived conflicts of interest.
  - (i) The need to maintain confidentiality.
  - (j) A commitment to non-adversarial working and dispute resolution.
  - (k) The commitment to act lawfully at all times, both within and outside of Council duties, recognising that unlawful behaviour can undermine public trust, damage Council's reputation, and compromise the integrity of Council operations.
- 10.6 Councillors and members of Council staff should work in partnership and behave in a manner that does not diminish the reputation of Council and thereby decrease public confidence in the organisation.
- 10.7 Councillors and members of Council staff can expect:
- (a) Mutual respect and courtesy at all times. There will be no inappropriate or public criticism, intimidating, or threatening behaviour of any kind.
  - (b) A working partnership. There will be an understanding of and support for each other's roles, workloads, and pressures.
  - (c) Appropriate relationships. Councillors and members of Council staff will not use their relationship to advance their personal interests or those of others or to influence decisions improperly.
- 10.8 Councillors and members of Council staff have specific roles. Councillors will:
- (a) Provide leadership and strategic direction.
  - (b) Maintain appropriate confidentiality.
  - (c) Comply with the Model Councillor Code of Conduct.
  - (d) Ensure they seek and act upon advice regarding:
    - (i) Legislation.
    - (ii) The Model Councillor Code of Conduct.
    - (iii) The declaration of Conflicts of Interest.
    - (iv) Rules and procedures relating to Council and Delegated Committee meetings.
    - (v) General propriety.

10.9 Councillors must not:

- (a) Direct individual members of Council staff or involve themselves in day-to-day management of staff or services.
  - (b) Seek to give unreasonable advantage on individual cases or matters or seek to substitute their judgment for the professional judgment of a member of Council staff.
  - (c) Engage in personal criticism of members of Council staff in a public meeting.
  - (d) Use Council's equipment, facilities, or members of Council staff for any electoral purpose.
- 10.10 Interaction with members of Council staff can be beneficial but Councillors must not abuse the relationship and attempt to take advantage of their position by directing or influencing a member of staff in exercising a delegated power or providing advice to Council, as outlined in section 124 of the Act. For example, Councillors cannot:
- (a) Direct a planning officer to issue a delegated planning decision in relation to a planning permit application.
  - (b) Direct a parking enforcement officer to withdraw an infringement notice.
- 10.11 Direct a member of Council staff to change the advice they provide in a Council report. However, Councillors can request that more information be provided or that the information provided be more specific.
- 10.12 Councillors should respect the professional opinions of members of Council staff and acknowledge that reports written by them are based on their professional expertise, knowledge, and skills. Councillors may not always agree with a report, but they cannot direct a member of Council staff to change a report or a recommendation within this.
- 10.13 Councillors must undertake to comply with any policies, practices and protocols defining appropriate arrangements for interaction between members of Council staff and Councillors that have been put in place by the Chief Executive Officer.
- 10.14 Councillors should be mindful that under section 46 of the Act, the Chief Executive Officer is responsible for ensuring the effective and efficient management of the day-to-day operations of the Council. This includes appointing, directing, managing, and dismissing members of Council staff and for all other issues that relate to them.

## **11 Appointment or Dismissal of members of Council staff**

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- 11.1 Under the [Local Government Act 2020](#) Other than the Chief Executive Officer, Councillors must take no part in the appointment or dismissal of an Officer, nor should they seek to influence in any way the appointment or dismissal of a particular person to a position.

## **PART 3: Compliance with Good Governance Measures**

### **12 Personal Interests Returns**

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12.1 Councillors must lodge:

- (a) An initial personal interests return within 30 days of taking the Oath or Affirmation of Office of a Councillor.
- (b) A biannual personal interests return in March and September each year.

### **13 Reimbursement of Expenses**

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13.1 Councillors must ensure any claims for the reimbursement of expenses are:

- (a) Properly made.
- (b) Submitted in a timely manner.
- (c) Supported by evidence.
- (d) Comply with both the Act and the Councillor Expenditure Policy.

### **14 Governance Rules**

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14.1 Council and delegated committee meetings must be conducted in accordance with the Governance Rules adopted by Council. Councillors should ensure they are both familiar with and understand the rules covering their conduct at meetings and must comply with these.

14.2 The Governance Rules require Councillors to consider a matter and make a decision:

- (a) Fairly, by giving consideration and making a decision which is balanced, ethical, and impartial.
- (b) On the merits, free from favouritism or self-interest and without regard to irrelevant, or unauthorised, considerations.

14.3 Section 60(6) of the Act requires Council to comply with its Governance Rules.

### **15 Gifts, Benefits and Hospitality**

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15.1 Councillors must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits, or hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from Council.

15.2 Councillors will take all reasonable steps to ensure that a family member does not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

15.3 For the purpose of transparency, Councillors must:

- (a) Declare all gifts, benefits and hospitality offered (including any offers that were declined) in accordance with Council's Gifts, Benefits and Hospitality Policy.
- (b) Ensure all declarations are properly made on the correct form, as may be determined by the Chief Executive Officer.

15.4 The Chief Executive Officer will arrange for the Disclosure of Gifts Benefits & Hospitality Register to be updated and published to Council's website.

- 15.5 Councillors must be aware of their responsibilities and the reporting procedure to deal with gifts and hospitality that may be offered to them as part of their role as a Councillor.

## **16 Land Use Planning, Development Assessment and Other Regulatory Functions**

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- 16.1 Councillors should ensure that decisions under the [Planning and Environment Act 1987](#) are properly made and in compliance with the law and that all parties involved are dealt with fairly and reasonably.
- 16.2 Councillors must make decisions with a clear and open mind, focusing on long-term community benefits rather than short-term needs, ensuring compliance with the Yarra Ranges Planning Scheme.
- 16.3 Councillors must avoid any situation that may create the perception of improper conduct in the exercise of land use planning, development, assessment, and other regulatory functions.
- 16.4 When called upon to determine applications under the [Planning and Environment Act 1987](#), no action, statement or communication between a Councillor and applicants or objectors should convey any suggestion of willingness to provide improper concessions, preferential treatment, or predetermined outcomes.
- 16.5 When proposing to meet with a known or proposed planning permit applicant (or property owner, or their representative), either for the purpose of discussing the application or where the application is likely to become a topic of discussion, Councillors must:
- (a) Hold the meeting with a planning officer present (preferable).
  - (b) Ensure the interaction with the planning permit applicant (or property owner, or their representative) is documented and that a record of this is sent to the Planning & Building department.
- 16.6 Councillors are not to express a view that demonstrates a bias or pre-conceived view or place themselves in a compromised position by appearing to be an advocate for or against any proposal that may come before the Council for a decision.
- 16.7 Councillors should have regard to the Proponent Requested Planning Scheme Amendment Policy and endorsed Strategic Land Use Planning Work Plan when considering requests for amendments to the Yarra Ranges Planning Scheme. Deviation from this Policy should only occur under exceptional circumstances that demonstrate net community benefit and justify prioritising resource allocation to that project over its endorsed Work Plan.

## **17 Council Record Keeping**

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- 17.1 Councillors are not employed by a public office and are therefore not public officers as defined by the [Public Records Act 1973](#). Documents made or received by Councillors are not public records (regardless of the content) unless they are then received by an employee of Council.
- 17.2 Notwithstanding clause 17.1, Councillors should exercise due care in their record keeping or when using supportive technologies such as Artificial Intelligence and web or cloud-based software systems Councillors who store information of a sensitive or confidential nature should ensure that this is appropriately protected.
- 17.3 Councillors should be mindful that all electronic communication undertaken on a Council device is likely to be treated as discoverable under the [Freedom of Information Act 1982](#).
- 17.4 Council ensures the destruction of documents is undertaken appropriately and that no sensitive or confidential information is disclosed due to inappropriate destruction methods. Councillors should liaise with members of Council staff regarding the disposal of information relating to Council business, such as documents containing confidential information, or documents from meetings that are not open to the community to attend, e.g., Council Forum.

## **18 Appointment to Other Bodies**

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- 18.1 Councillors may be appointed by Council to represent it on external organisations. Appointments are made annually by Council.
- 18.2 It is important that Councillors:
- (a) Clearly understand the basis of their appointment.
  - (b) Recognise the differences in their obligations as a delegate or member of the governing body of the external organisation.
  - (c) Provide regular and timely reports to the Council on the activities of the organisation they have been appointed to.
  - (d) Adhere to the external organisations or committees Terms of Reference
- 18.3 Councillors should be mindful that the provisions of the Code apply when representing the Council on external organisations.

## **PART 4: Councillor must not Discredit or Mislead Council or Public**

### **19 Improper Conduct**

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#### **Misuse of Position**

- 19.1 In accordance with section 123 of the Act, a Councillor must not misuse their position to:
- (a) Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person.
  - (b) Cause, or attempt to cause, detriment to the Council or another person.

#### **Directing a Member of Council Staff**

- 19.2 In accordance with section 124 of the Act, a Councillor must not intentionally direct or improperly influence, or seek to direct or improperly influence, a member of Council staff in:
- (a) The exercise of a delegated power, or the performance of a delegated duty or function of the Council.
  - (b) In the exercise of a power or the performance of a duty or function exercise or performed by the member as an authorised officer under this Act or any other Act.
  - (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 this Act or any other Act.
  - (d) In relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.

### **20 Use of Email, Internet and Social Media**

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- 20.1 Councillors must not use 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 criminal penalty or civil liability and/or damage Council's reputation.
- 20.2 When using email, the internet, and social media in their capacity as a Councillor, Councillors will:
- (a) Maintain a civil and courteous tone.
  - (b) Take measures to ensure that personal comments cannot be mistaken for the official view of Council.
  - (c) Avoid making posts or sending content that may damage the reputation of the Council.
  - (d) Not use social media or other forms of electronic communication to harass or discriminate against others.
  - (e) Not seek to perform an administrative function outside their powers as a Councillor.
  - (f) Not disclose confidential information.
  - (g) Not seek to inappropriately direct an officer, including framing any attempt at direction as a request.



- (h) Not publish direct or indirect threats to other councillors, officers, or members of the community.
- 20.3 Councillors will not use the email account provided by the Council for electioneering purposes, including using an email signature to endorse their campaign or any other person's candidature in an election.
- 20.4 All emails from a Councillor's official Council email account, together with posts to the internet or social media, will be deemed to be posts to the public.
- 20.5 Councillors must comply with the policies, practices, and protocols covering the use of email, internet and social media that are put in place by the Chief Executive Officer.
- 20.6 Councillors are responsible for moderating their social media accounts and should:
  - (a) Remove or hide third-party comments that are offensive, discriminatory, or potentially defamatory.
  - (b) Regularly monitor their social media platforms for inappropriate content.
  - (c) Not be held responsible for third-party comments they were unaware of, provided they take prompt action to remove or hide such comments once notified.

## **21 Conflict of interest**

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- 21.1 Sections 126 to 131 of the Act and the Governance Rules require each Councillor to identify, manage, and disclose any conflicts of interest they may have.
- 21.2 Councillors must not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- 21.3 Councillors should acknowledge that members of Council staff cannot offer any formal advice in relation to whether an actual or perceived conflict of interest exists. It is the responsibility of individual Councillors to determine this.
- 21.4 Any assistance provided by members of Council staff will be limited to aiding understanding of the provisions of the Act, Council's Conflict of Interest Policy and the provisions in the Governance Rules.

## **22 Fraud and Corruption**

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Fraud is defined as "dishonest activity causing actual or financial loss to any person or entity and where deception is used at the time, immediately before or following the activity" and includes theft, misappropriation of funds, falsifying, destroying, or altering documents, and misuse of Council assets.

Corruption is defined as "dishonest activity in which a Councillor, Council employee, Council volunteer or Council contractor abuses their position of trust in order to achieve some personal gain or advantage for themselves or for another person or entity"

and includes receiving benefits from other parties, providing favourable treatment to others, purporting to act on behalf of council or failing to disclose a conflict of interest.

- 22.1 Under Council's Fraud Control Policy, Councillors are responsible for:
- (a) Ensuring that they do not undertake fraudulent or corrupt activities or behaviour.
  - (b) Assisting Council to identify and detect suspected fraudulent and corrupt activities.
  - (c) Reporting any potential suspected activities in order that the activities be investigated.
- 22.2 Councillors must immediately report any suspected, potential or actual fraudulent, criminal, unethical, corrupt or other unacceptable behaviour to the Chief Executive Officer, Council's Public Interest Disclosure Officer(s) and/or appropriate integrity body in line with the Council's Public Interest Disclosure Procedure.
- 22.3 Councillors will participate, as required and to the best of their ability, in any subsequent investigation whether undertaken internally or externally.

## **23 Councillors Contesting Elections**

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### **Council Elections**

- 23.1 Councillors must comply with the requirements of Council's Election Period Policy (which forms part of Council's adopted Governance Rules) in relation to procedures to be applied by Council during the election period for a General Election and by-election.
- 23.2 Councillors must record all campaign donations received and submit an election campaign donation return to the Chief Executive Officer in accordance with section 306 of the Act.

### **State and Federal Elections**

If a Councillor is elected as a member of the Parliament of Victoria or of the Parliament of the Commonwealth of Australia or of another State or a Territory of the Commonwealth, section 34(2)(a) of the Act provides that they can no longer continue to be a Councillor.

- 23.3 Councillors considering standing for election must ensure that they continue to comply with the requirements of both the Act and Council's Election Period Policy during the election period prior to State and Federal elections.
- 23.4 The following guidelines, developed by the Municipal Association of Victoria and adopted by Council in 2018, will apply to Councillors who contest a State or Federal election:
- (a) A Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate for a state or federal election (a Prospective Candidate), will provide written advice to the Chief Executive Officer, as soon as practicable, who will then advise all Councillors.

- (b) A Councillor who is a Prospective Candidate, will declare their intended candidacy at a meeting of the Council as soon as practicable after notifying the Chief Executive Officer pursuant to clause 23.4(a).
- (c) A Councillor who nominates as a candidate for a state or federal election (a Nominated Candidate), will apply for a leave of absence from the Council and this leave of absence will commence no later than the date of their nomination as a candidate with the relevant electoral commission for the election (Nomination Date) and conclude no earlier than the close of voting for the election. During this period, a Councillor who is on a leave of absence will not attend meetings of the Council or otherwise act as a Councillor.
- (d) Any Councillor / staff relationship protocol which the Council has in place in respect of the caretaker period prior to a Council election, will be observed by a Nominated Candidate and this will apply from their Nomination Date until the close of voting for the election.
- (e) A Council, upon receiving an application for a leave of absence from a Councillor who is a Nominated Candidate or who intends to become a Nominated Candidate, should approve that application.
- (f) A Councillor who is a Prospective Candidate or a Nominated Candidate, will take care to differentiate between their role as a state or federal election candidate and role as a Councillor when making public comment.
- (g) A Councillor who is a Prospective Candidate or a Nominated Candidate, will not use Council resources, including Council equipment and facilities in relation to their candidacy.
- (h) A Councillor who is a Prospective Candidate or a Nominated Candidate, will not use Council activities, including Council meetings and council-related external activities in relation to their candidacy.

## **24 Handling Complaints**

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- 24.1 Councillors should deal with complaints and disputes in line with the provisions set out in Part 5 of the Code.
- 24.2 Complaints about Council services or members of Council staff received from members of the municipal community must be dealt with in line with Council's Complaint and Unreasonable Behaviour Policy.

## **25 Personal Dealings with Council**

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- 25.1 Councillors may have reason to deal with Council in their private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) and must not expect nor request preferential treatment in relation to any matter in which they have a private interest because of their position.
- 25.2 A Councillor must:
  - (a) Undertake any personal dealings they have with Council in a manner that is consistent with the way other members of the community deal with Council.
  - (b) Not take any further part in a statutory process following submission of an application to Council for a permit for their own property and must

never seek to pressure or influence Council staff to provide a particular recommendation on any application, agreement or in taking enforcement action.

- (c) Not access Council systems or seek to gain Council information to assist in the resolution of their matter.
- (d) Ensure that any conflict of interest they may have in any matter is disclosed and appropriately managed in accordance with the requirements of the Act and the Code.

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## **PART 5: Maintaining the Integrity of the Code**

### **26 Disputes between Councillors**

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- 26.1 A dispute may relate to:
- (a) An incident in which offense is taken.
  - (b) An interpersonal conflict between Councillors where this is or is likely to affect the operations of Council, such as a breakdown in communication, a misunderstanding, a disagreement, or a strained working relationship.
  - (c) An alleged contravention of the Code, including the Model Councillor Code of conduct a perceived misconduct or perceived serious misconduct that could form the basis of a formal complaint, but that the party wishes to try and resolve early and informally.
- 26.2 Before commencing any formal process, Councillors are expected to use their best endeavours to resolve a dispute in a courteous and respectful manner between themselves. Where, after these endeavours have been exhausted, the matter remains unresolved, the parties may resort to:
- (a) Direct negotiation between the parties in dispute, with the Mayor in attendance to provide guidance.
  - (b) External mediation by an independent mediator engaged by the Chief Executive Officer.
- 26.3 A request for direct negotiation must be made in writing and provide the Mayor with the name of the other Councillor and the details of the dispute.
- 26.4 Where a dispute relates to an alleged contravention of the Code, a perceived misconduct or perceived serious misconduct a request for direct negotiation or external mediation must be provided to the Mayor and Chief Executive Officer, and:
- (a) Specify the name of the Councillor.
  - (b) Specify the provision(s) of the Code that are alleged to have been contravened or provide details of the perceived misconduct or perceived serious misconduct.
  - (c) Include evidence in support of the allegation.
  - (d) Name the Councillor appointed to be their representative where the request is made by a group of councillors.
  - (e) Be signed and dated by the requestor or the requestor's representative.

#### **Direct Negotiation**

- 26.5 The requestor is to notify the other party of the request and provide them with a copy of the written request either at the same time as it is provided to the Mayor or as soon as practicable thereafter.
- 26.6 The Mayor is to ascertain whether the other party is prepared to attend a "direct negotiation" meeting.
- 26.7 If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. In any such case, the requestor may utilise the provisions set out at clause 26.14. No further action is required of the Mayor.

- 26.8 If the other party declines to participate in a meeting, this does not constitute a contravention of the Code.
- 26.9 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 5 working days of receiving the consent of the other party.
- 26.10 The Mayor may present the parties with guidelines, in advance or at the beginning of the meeting, to help facilitate the meeting.
- 26.11 The role of the Mayor at the meeting is to:
- (a) Provide guidance about what is expected of a Councillor, including in relation to their role under section 28 of the Act and the Code.
  - (b) Document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties.
- 26.12 Where one party does not comply with the agreement, the other party has recourse to external mediation or the internal resolution procedure where the matter relates to an alleged breach by a Councillor of the prescribed standards of conduct included in the Code.
- 26.13 If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties.
- 26.14 Where the dispute remains unresolved, either or both of the parties have recourse to:
- (a) External mediation.
  - (b) The internal arbitration process where the matter relates to perceived misconduct by a Councillor, arising from an alleged breach of the Model Councillor Code of Conduct.
  - (c) A Councillor Conduct Panel where the matter relates to alleged serious misconduct by a Councillor.
- 26.15 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**

- 26.16 A Councillor or a group of Councillors may make an application to the Mayor and Chief Executive Officer for a dispute to be referred for external mediation whether or not the dispute has been the subject of a request for direct negotiation.
- 26.17 The applicant is to notify the other party of the request and provide them with a copy of the application either at the same time it is submitted to the Mayor and Chief Executive Officer or as soon as practical thereafter.
- 26.18 The Chief Executive Officer is to ascertain in writing whether or not the other party is prepared to attend external mediation. If the other party declines to participate, they must provide their reasons for doing so in writing to the Chief

Executive Officer. These reasons may be considered if the matter is, subsequently, the subject of an application for an internal arbitration process or a Councillor Conduct Panel.

- 26.19 If the other party declines to participate in an external mediation, this does not constitute a contravention of the Code.
- 26.20 If the other party agrees to participate in an external mediation, the Chief Executive Officer is to engage the services of an external mediator to conduct the mediation at the earliest practicable opportunity.
- 26.21 The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to the internal resolution procedure where the matter relates to an alleged breach by a Councillor of the prescribed standards of conduct included in the Code.
- 26.22 If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties.
- 26.23 Where the dispute remains unresolved, the applicant has recourse to:
- (a) The internal arbitration process where the matter relates to alleged misconduct by a Councillor.
  - (b) A Councillor Conduct Panel where the matter relates to alleged serious misconduct by a Councillor.

## **27 Disputes between Councillors and members of staff**

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- 27.1 If a Councillor has concerns that a member of staff has acted contrary to a formal Council policy or decision, or other concerns about the actions or behaviour of a member of staff, they should raise these with directly the Chief Executive Officer. The Chief Executive Officer will take whatever action they consider appropriate in the exercise of their responsibilities under the Act.
- 27.2 Where a member of staff has a complaint in respect of a Councillor, the complaint is to be made to the Chief Executive Officer who will progress the matter with the Mayor. Where the complaint involves the Mayor, the Chief Executive Officer will progress the matter with the Deputy Mayor. The Mayor (or Deputy Mayor if a complaint involves the Mayor) and the Chief Executive Officer will agree on recommended action to be taken to resolve the complaint.

## **28 Disputes between members of the Public and Councillors**

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- 28.1 Where a complaint is received from the public in respect of a Councillor, the matter will be referred to the Mayor by the Chief Executive Officer for consideration. Where any complaint involves the Mayor, the Chief Executive Officer will process this with the Deputy Mayor. If the complaint concerns both the Mayor and Deputy Mayor, the Chief Executive Officer will refer the matter to another Councillor of their choice.

- 28.2 The Mayor (or Deputy Mayor if a complaint involves the Mayor) and the Chief Executive Officer will agree on recommended action to be taken to resolve the complaint.

## **29 Management of Councillor Conduct Issues**

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**Misconduct** by a Councillor means any breach by a Councillor of the Model Councillor Code of Conduct.

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

- (a) The failure by a Councillor to comply with the Council's internal arbitration process.
- (b) The failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147.
- (c) The failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor.
- (d) The failure of a Councillor to comply with a direction of a Councillor Conduct Panel.
- (e) Continued, or repeated, misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b).
- (f) Bullying by a Councillor of another Councillor or a member of Council staff.
- (g) Conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff.
- (h) The disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information.
- (i) Conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff.
- (j) The failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision-making process when required to do so in accordance with this Act.

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

- (a) Not of good character.
- (b) Is otherwise not a fit and proper person to hold the office of Councillor, including behaviour that is sexual harassment and that is of an egregious nature.

29.1 The Act establishes a Councillor Conduct Framework that provides a clear hierarchy for the management of Councillor conduct issues. Under this framework:

- (a) Complaints of misconduct by a Councillor are heard and determined, as per section 141 of the Act, in accordance with the Council's internal arbitration process by an independent arbiter.
- (b) Complaints of serious misconduct by a Councillor are heard and determined, as per section 154 of the Act, by a Councillor Conduct Panel.
- (c) Allegations of gross misconduct are dealt with, as per section 171 of the Act, by VCAT.



## Internal Arbitration Process

29.2 An application for an internal arbitration process must be made within three months of the alleged misconduct occurring and in accordance with section 143 of the Act. The prescribed internal arbitration processes to be followed are set out at regulation 11 of the [Local Government \(Governance and Integrity\) Regulations 2020](#).

## Councillor Conduct Panel

29.3 A Councillor Conduct Panel may hear an application that alleges serious misconduct by a Councillor. An application for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor must be made in accordance with section 154 of the Act.

29.4 An application for a Councillor Conduct Panel must be made to the Principal Councillor Conduct Registrar in the manner specified by them in any guidelines published under section 149(1)(n) of the Act.

## Councillor Conduct Officer

29.5 The Chief Executive Officer is required to appoint a Councillor Conduct Officer to assist:

- (a) In the implementation of and the conduct of the internal arbitration process.
- (b) The Principal Councillor Conduct Registrar to perform the functions specified in section 149(1) of the Act.
- (c) The Principal Councillor Conduct Registrar in relation to any request for information under section 149(3) of the Act.

29.6 The Director Corporate Services has been appointed as the Councillor Conduct Officer.

## 30 Public Interest Disclosures

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30.1 A public interest disclosure may be made about two things under the [Public Interest Disclosures Act 2012](#):

- (a) Improper conduct (such as corrupt conduct) of public bodies or public officers.
- (b) Detrimental action taken by public bodies or public officers in reprisal against a person for the making of a disclosure.

30.2 One of the most critical requirements of the [Public Interest Disclosures Act 2012](#) is that disclosures are made to a body authorised under the legislation to receive the disclosure. Accordingly, a disclosure about improper conduct or detrimental action by a:

- (a) Member of staff should be made in accordance with Council's Public Interest Disclosure Procedure.
- (b) Councillor must be made directly to the Independent Broad-Based Anti-Corruption Commission (IBAC) or the Victorian Ombudsman.

