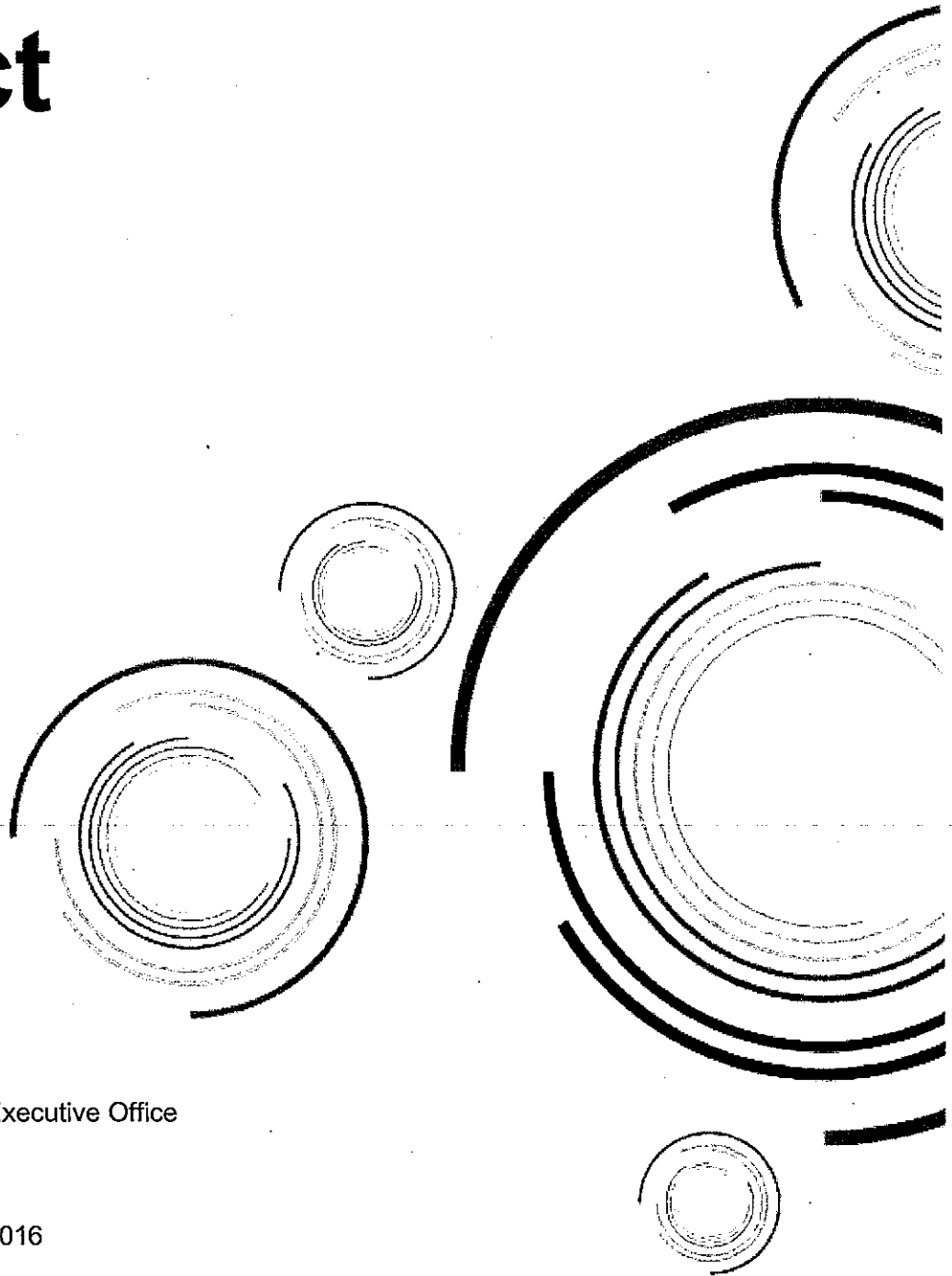




BOROONDARA
City of Harmony

Councillor Code of Conduct

2016



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1. Introduction

As Councillors at the City of Boroondara we are committed to high standards of governance and recognise this as essential to governing well for our community. Our behaviour in our dealings with each other, the community and the Council administration is critical to success. This Code of Conduct reflects the behaviours we will apply to meet our obligations to the community, the Council administration and to each other.

Additionally, the *Local Government Act 1989* (the Act) requires Council to develop and maintain a Councillor Code of Conduct. The Councillor Code of Conduct is required to be periodically reviewed.

Our commitment to working together constructively will enable us to achieve Council's vision as documented in the Council Plan, in a manner consistent with our values.

This Code of Conduct is complemented by a range of Council policies and procedures that form part of Boroondara's governance framework.

2. Purpose of the Councillor Code of Conduct

The purpose of local government is to provide a system under which Councils perform the functions and exercise the powers conferred by or under the *Local Government Act 1989* and any other Act for the peace, order and good government of their municipal districts. Good governance is fundamental to a Council being able to perform its purpose. Good governance relies on good working relations among councillors, and between councillors and officers.

This Code:

- sets out the standards of conduct expected of elected representatives;
- endeavours to foster good working relations between councillors, the community and the Council administration to enable councillors to work constructively together in the best interests of the local community; and
- mandates councillor conduct designed to build public confidence in the integrity of local government.

3. Background

Council must, within 4 months after a general election:

- (a) call a special meeting solely for the purpose of reviewing the Councillor Code of Conduct; and
- (b) at that special meeting, approve any amendments to be made to the Councillor Code of Conduct determined by the Council to be necessary following the review of the Councillor Code of Conduct.

A copy of this Code of Conduct (as amended from time to time) must be:

- given to each councillor
- available for inspection at the Camberwell and Hawthorn office
- published on the Council's website

From the 2016 Council elections, a person elected to be a councillor is not capable of acting as a councillor until the person has read the Councillor Code of Conduct and made a declaration stating that they will abide by the Councillor Code of Conduct. It is the personal responsibility of councillors to ensure that they are conversant with, and comply with, the provisions of this Code.

This Code of Conduct replaces the previous Code of Conduct adopted by resolution of Council on 29 April 2013.

4. Councillor Conduct Principles

As councillors of the City of Boroondara we are committed to:

- the principles of good governance
- discharging our responsibilities to the best of our skill and judgment.
- working together in the best interests of the people within our municipality

We endorse and agree, as is specified in the Act, that it is a primary principle of councillor conduct that, in performing the role of a councillor, we as a councillor must:

- act with integrity;
- impartially exercise our responsibilities in the interests of the local community; and
- not improperly seek to confer an advantage or disadvantage on any person.

In addition, in performing our role as councillors we will:

- avoid conflicts between our public duties as a councillor and our personal interests and obligations;
- act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other councillors, council staff and other persons;
- exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;
- endeavour to ensure that public resources are used prudently and solely in the public interest;
- act lawfully and in accordance with the trust placed in each of us as elected representatives; and
- support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of councillor.

5. Roles and Relationships

We recognise the importance of appropriate and productive relationships and will strive to support and maintain these relationships as we work cooperatively to achieve Council's vision and mission.

We recognise our responsibility to ensure our interactions with staff, each other or others associated with Council meet the requirements of the *Occupational Health and Safety Act 2004* and the *Equal Opportunity Act 2010 (Vic)*.

5.1. Chief Executive Officer and Administration

We acknowledge that the administration is accountable to Council through the Chief Executive Officer.

As councillors we recognise that under the Act, the Chief Executive Officer is responsible for:

- (a) establishing and maintaining an appropriate organisational structure for the Council; and
- (b) ensuring that the decisions of the Council are implemented without undue delay; and
- (c) the day to day management of the Council's operations in accordance with the Council Plan; and
- (d) developing, adopting and disseminating a code of conduct for Council staff; and
- (e) providing timely advice to the Council; and
- (f) ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act;
- (g) supporting the Mayor in the performance of the Mayor's role as Mayor;
- (h) 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 *Accident Compensation Act 1985* or the *Workplace Injury Rehabilitation and Compensation Act 2013*; and
- (i) performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act.

We undertake to respect the functions of the Chief Executive Officer and to comply with the policies, practices and protocols defining appropriate arrangements for interaction between Council staff and councillors that the Chief Executive Officer can put in place under the Act.

As councillors, we will be mindful of our obligations under the Act and endeavour to ensure our interactions with members of Council staff do not, and are not perceived to improperly direct or influence members of Council staff in the exercise of their duties, or in their professional advice to Council.

Where practicable, we will direct our enquiries to the administration through the Chief Executive Officer, Directors or Managers.

We accept that decisions which modify, change or reject officer recommendations must only be made at formal Council or Committee meetings.

5.2. Councillors

We acknowledge that as councillors we are elected to govern the municipality as Council, on behalf of the community.

We also acknowledge that the Act provides that the role of a councillor is:

- (a) to participate in the decision-making of the Council;
- (b) to represent the local 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, we will:

- (a) consider the diversity of interests and needs of the local community; and
- (b) observe principles of good governance and act with integrity; and
- (c) provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under this Act and other Acts; and
- (d) participate in the responsible allocation of the resources of Council through the annual budget; and
- (e) facilitate effective communication between the Council and the community.

The role of a councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A of the Act.

5.3. The Mayor

We recognise that the Mayor provides leadership of Council by virtue of the respect and authority the role is afforded by Council and councillors and note that the Mayor shall take precedence at all municipal proceedings within the City as "first among equals".

We acknowledge that the Act describes the functions of the Mayor as including:

- (a) providing guidance to councillors about what is expected of a councillor including in relation to the role of a councillor under section 65, and the observation of the councillor conduct principles and the Councillor Code of Conduct by councillors under sections 76B, 76BA and 76C; and
- (b) acting as the principal spokesperson for the council; and
- (c) supporting good working relations between councillors; and
- (d) carrying out the civic and ceremonial duties of the office of Mayor.

5.4. Use of Council Resources

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

- 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;
- ensure any expense claims that we submit are in compliance with the relevant legislative provisions and Council policy;
- 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
- not use public funds or resources in a manner that is improper or unauthorised.

5.5. Gifts and Benefits

We will scrupulously 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 the Council.

We will take all reasonable steps to ensure that our immediate family members (parents, spouse, children and siblings) do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

Where a gift is received on behalf of the Council, the gift becomes the property of the Council. For transparency and accountability purposes, these gifts will be recorded in the Councillors Gifts and Hospitality Register with a notation that it is the property of the Council.

We recognise that gifts equal to or above the gift disclosure threshold received in the twelve months prior to election from a person or body that has a direct interest in a matter may give rise to an indirect interest because of receipt of an applicable gift.

We will record all campaign donations in our "campaign donation return".

5.6. 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 policy 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 Council. We will ensure that any such comment is not derogatory, offensive or insulting to any person.

5.7. 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.

5.8. Candidature for State, Federal or Local Government elections

A councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate (a Prospective Candidate) for:

- a State government election;
- a Federal government election; or
- a local government election in a municipality other than the City of Boroondara;

should provide written advice to the Chief Executive Officer, as soon as practicable, who should then advise all councillors.

A councillor who is a Prospective Candidate, should declare their intended candidacy at a meeting of the Council, as soon as practicable after notifying the Chief Executive Officer.

A councillor who nominates as a candidate (a Nominated Candidate) for:

- a State government election;
- a Federal government election; or
- a local government election in a municipality other than the City of Boroondara;

should apply for leave of absence from the Council and this leave of absence should 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 should not attend meetings of the Council or otherwise act as a councillor.

A councillor who is a Prospective Candidate or a Nominated Candidate, should take care to differentiate between their role as a Prospective Candidate or a Nominated Candidate and their role as a councillor when making public comment.

A councillor who is a Prospective Candidate or a Nominated Candidate, should not use:

- Council resources, including Council equipment and facilities; or
- Council activities, including committee meetings and Council related external activities;

in relation to their candidacy.

6. Process for Decision Making

We are committed to making all decisions impartially and in the best interests of the whole community and acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance. Accordingly:

- We will actively and openly participate in the decision making process, striving to achieve the best outcome for the community.
- We will respect the views of the individual in the debate.
- We will accept that decisions are based on a majority vote.

6.1. Formal Council Decision Making

Council makes decisions at Council or Special Committee meetings. The Mayor is the chairperson for Council meetings and chairpersons for Special Committee meetings are appointed annually.

We acknowledge the critical role of the Chairperson to facilitate good decision making, in particular by encouraging full and balanced participation by all councillors and members of the public where appropriate in accordance with Council's Meeting Procedure Local Law.

We acknowledge that, as a matter of custom and practice, the immediate past Mayor or past Chairperson of the relevant Special Committee will be the first candidate considered where it is necessary to elect a temporary chairperson.

6.2. Councillor Briefings

Informal briefings and discussions are not Council meetings and therefore not decision-making forums. Such meetings of councillors and Council staff are an opportunity to discuss issues informally.

All discussion, subject matter and materials considered at a Councillor Briefing and Discussion Meeting should be treated as confidential information.

During the course of any briefing or discussion, as councillors we will not seek to place restrictions on the ability of Council staff to give independent advice or seek to direct or request Council staff to present a particular recommendation(s) to Council or the relevant Committee.

6.3. Councillor Assignments

Council establishes a range of advisory committees to address specific issues, often with input from members of the community. Council also participates on external committees or organisations through assigning a councillor or officer to the body.

We acknowledge that in the absence of specific delegations or authorisation, Councillor assignments do not carry executive authority which remains with Council and/or delegated officers.

7. Prohibited Conduct

The Act has specific provisions that prohibit Councillors from certain conduct. This conduct relates to:

- Misuse of position
- Improper direction and improper influence
- Confidential information
- Conflict of interest
- Electoral conduct

These matters are set out below in order to provide a complete picture of the obligations on councillors. While these matters are not of a nature to be addressed as a contravention of the Councillor Code of Conduct, we undertake to comply with the prohibitions on councillor conduct set out below. These matters should more properly be the subject of an application to a Councillor Conduct Panel for a finding of serious misconduct or a complaint to the Local Government Inspectorate or the Independent Broad-based Anti-corruption Commission depending on the nature of the allegation.

(Note: Serious misconduct by a councillor means:

- (a) the failure of a councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that councillor; or*
- (b) the failure of a councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the councillor to give; or*
- (c) the failure of a councillor to comply with a direction of a Councillor Conduct Panel; or*
- (d) continued or repeated misconduct by a councillor after a finding of misconduct has already been made in respect of the councillor by a Councillor Conduct Panel; or*
- (e) bullying of another councillor or member of Council staff by a councillor; or*
- (f) conduct by a councillor in respect of a member of Council staff in contravention of section 76E; or*
- (g) the release of confidential information by a councillor.)*

7.1. Misuse of Position

A councillor must not misuse his or her 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, 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 he or she held or holds; or
- (b) disclosing information that is confidential information within the meaning of section 77(2); or
- (c) directing, or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or
- (d) exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or
- (e) using public funds or resources in a manner that is improper or unauthorised; or
- (f) failing to disclose a conflict of interest as required under the Act.

7.2. Improper Direction and Improper Influence

A councillor must not 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 exercise 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 special committee, including advice in a report to the Council or special committee.

7.3. Confidential Information

A councillor must not disclose information that the he or she knows, or should reasonably know, is confidential information.

A councillor may disclose information that the he or she knows is confidential information in the following circumstances:

- (a) for the purposes of any legal proceedings arising out of this 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; or
- (g) to the extent reasonably required for any other law enforcement purposes.

7.4. Conflict of Interest

If a councillor has a conflict of interest in a matter which is to be considered or discussed at a meeting of the Council or special committee, an assembly of councillors, an audit committee or a section 223 committee, the councillor must, if he or she is attending the meeting, disclose the conflict of interest in accordance with the provisions of the Act (unless any of the exemptions apply).

A councillor has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the councillor would be directly altered if the matter is decided in a particular way. This includes where there is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms and where the councillor, or together with a member or members of the person's family have a controlling interest in a company or other body that has a direct interest in the matter.

A conflict of interest also exists where a councillor has any of the six types of indirect interest. These indirect interests are:

- **Close association** - an indirect interest because of a close association with a family member, relative or member of the household who has a direct interest.
- **Indirect financial interest** - an indirect financial interest, including holding shares above a certain value in a company with a direct interest.
- **Conflicting duty** - a conflicting duty arising from having particular responsibilities to a person or organisation with a direct interest.
- **Applicable gift** - receipt of an applicable gift or gifts from a person or organisation with a direct interest.

- **Interested party** - a party to the matter by having become involved in civil proceedings in relation to the matter.
- **Residential amenity** - this occurs where there is a reasonable likelihood that the person's residential amenity will be altered if the matter is decided in a particular way.

7.5. Electoral Conduct

The Act includes requirements in relation to councillor eligibility, electoral conduct and the election period (caretaker period). Alleged contraventions of these provisions are not to be dealt with by the Council using the internal resolution procedure in this Code of Conduct.

Allegations in relation to contravention of these provisions should be directed to the Victorian Electoral Commission or the Local Government Inspectorate, depending on the nature of the allegation, for investigation and any consequent action.

We undertake to comply with the various provisions relating to these matters.

8. Dispute Resolution Procedures

Councillors commit to working effectively together at all times and to developing good working relationships. Councillors acknowledge that:

- the Act requires the Code to include an internal resolution procedure for dealing with any alleged contraventions of the Code and that Council can apply sanctions to a councillor who has been found to have contravened the Code.
- failure to comply with the Council's internal resolution procedure or to comply with a written direction given by the Council under section 81AB of the Act (sanctions for contravention of the Code) constitutes misconduct by a councillor.
- if a Councillor Conduct Panel makes a finding of misconduct against a councillor, the Panel may apply further sanctions against that councillor.

Before commencing any formal dispute resolution process, the councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner informally between themselves. Where, after these endeavours have been exhausted, the matter still remains unresolved, the parties may resort to any or all of the Council's three phase dispute resolution process.

The Council's three phase dispute resolution process provides a more formal framework for councillors to continue to work together to try to resolve the dispute.

The three phases of the process are:

1. direct negotiation between the parties in dispute with the Mayor in attendance to provide guidance;
2. external mediation by an independent mediator engaged by the Chief Executive Officer; and
3. an internal resolution procedure involving an independent arbiter.

8.1. Phase 1 - Direct Negotiation

Where councillors who are in dispute have not been able to resolve the dispute between them, either (or both) party (parties) may request the Mayor to convene a meeting of the parties. The Mayor must inform the Chief Executive Officer of any such request.

A dispute referred for direct negotiation may relate to:

- an interpersonal conflict between councillors where the conflict is affecting or is likely to affect the effective function of the Council; or
- an alleged contravention of the Councillor Code of Conduct.

The party requesting the direct negotiation meeting is to provide the Mayor with 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" dispute resolution process. Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

- specify the name of the councillor alleged to have contravened the Code;
- specify the provision(s) of the Code 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 requestor's representative.

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 or as soon as practicable thereafter.

The Mayor is to ascertain whether or not the other party is prepared to attend a "direct negotiation" meeting.

If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor and the Chief Executive Officer forthwith. No further action is required of the Mayor.

If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

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.

The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

The role of the Mayor at the meeting is to provide guidance to councillors about what is expected of a councillor including in relation to the role of a councillor under section 65 of the Act, and the observation of the councillor conduct principles and the Councillor Code of Conduct.

The Mayor is to document any agreement reached at the meeting and inform the Chief Executive Officer an agreement has been reached. 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 external mediation or the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

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, either or both of the parties have recourse to external mediation or the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

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

8.2. Phase 2 - External Mediation

A councillor or a group of councillors may make an application for a dispute to be referred for external mediation whether or not the dispute has been the subject of an application for "direct negotiation".

An application made for a dispute to be referred for 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 contravention of the Councillor Code of Conduct.

The applicant is to submit a written application to the Principal Conduct Officer setting out the name of the councillor and the details of the dispute. The application is to indicate that the application is for an "external mediation". Where the application relates to an alleged contravention of the councillor Code of Conduct, the application must:

- specify the name of the councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the councillor appointed to be their representative where the application is made by a group of councillors; and
- be signed and dated by the applicant or the applicant's representative.

The applicant is to notify the other party of the request and provide him or her with a copy of the application either at the same time that it is submitted to the Principal Conduct Officer or as soon as practical thereafter.

The Principal Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend an "external mediation". If the other party declines to participate in an external mediation, he or she is to provide their reasons for doing so in writing to the Principal Conduct Officer. These reasons may be taken into account if the matter is, subsequently, the subject of an application for a Councillor Conduct Panel.

When the other party declines to participate in an external mediation, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party agrees to participate in an external mediation, the Principal Conduct Officer is to advise the applicant, the Mayor and 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 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 contravention of the Councillor Code of Conduct.

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 applicant has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

8.3. Phase 3 - Internal Resolution Procedure - Arbiter

An application cannot be made for an internal resolution procedure during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an internal resolution procedure is not returned to office as a councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

- the application was made by the Council and the Council so resolves; or
- the application was made by a group of councillors and any one (or more) of those councillors who has been returned to office wishes to proceed with the application; or
- the applicant (individual councillor) is returned to office and wishes to proceed with the application.

A councillor or a group of councillors may make an application alleging that a councillor has contravened this Councillor Code of Conduct. The application must:

- specify the name of the councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the councillor appointed to be their representative where the application is made by a group of councillors; and
- be signed and dated by the applicant or the applicant's representative.

The application must be submitted to the Council's Principal Conduct Officer.

An applicant may withdraw an application for an internal resolution procedure. Once an application has been withdrawn, the same or a similar application relating to the same instance in relation to the respondent councillor cannot be resubmitted by the applicant.

On receiving an application, the Principal Conduct Officer will:

- advise the Mayor and the Chief Executive Officer of the application without undue delay;
- provide a copy of the application to the councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;
- in consultation with the Chief Executive Officer, identify an arbiter to hear the application;
- obtain from the arbiter written advice that they have no conflict of interest in relation to the councillors involved;
- notify the parties of the name of the proposed arbiter and provide them with the opportunity (2 working days) to object to the person proposed to be the arbiter;

- consider the grounds of any objection and appoint the proposed arbiter or identify another arbiter;
- provide a copy of the application to the arbiter as soon as practicable after the opportunity for the parties to object to an arbiter has expired;
- after consultation with the arbiter, advise the applicant and the respondent of the time and place for the hearing; and
- attend the hearing(s) and assist the arbiter in the administration of the process.

In identifying an arbiter to hear the application, the Principal Conduct Officer in consultation with the Chief Executive Officer must select an arbiter who is suitably independent and able to carry out the role of arbiter fairly.

The role of the arbiter is to:

- consider applications alleging a contravention of the Councillor Code of Conduct by a councillor;
- make findings in relation to any application alleging a contravention of the Councillor Code of Conduct which the arbiter must give to the Council;
- give a written statement of reasons supporting the findings to the Council at the same time as it gives its findings to the Council;
- recommend an appropriate sanction or sanctions where the arbiter has found that a councillor has contravened the Councillor Code of Conduct.

In considering an application alleging a contravention of the Councillor Code of Conduct, an arbiter will:

- in consultation with the Principal Conduct Officer, fix a time and place to hear the application;
- authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;
- hold as many meetings as he or she considers necessary to properly consider the application. The arbiter may hold a directions hearing;
- have discretion to conduct the hearings as he or she deems fit while ensuring that the hearings are conducted with as little formality and technicality as due and proper consideration of the application allows;
- ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter;
- consider an application by a respondent to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application;
- ensure that the rules of natural justice are observed and applied in the hearing of the application; and
- ensure that the hearings are closed to the public.

Where an application to have legal representation is granted by an arbiter, the costs of the respondent's legal representation are to be borne by the respondent in their entirety.

An arbiter:

- may find that a councillor who is a respondent to an internal resolution procedure application has not contravened the Code;
- may find that a councillor who is a respondent to an internal resolution procedure has contravened the Code;
- will suspend consideration of an internal resolution procedure during the election period for a general election.

The arbiter is to give a copy of his or her findings and the statement of reasons to the Council, the applicant and the respondent. At the same time, the arbiter provides the findings and statement of reasons, he or she shall, where a councillor has been found to have contravened the Code, recommend an appropriate sanction or sanctions for the contravention for consideration by the Council.

A copy of the arbiter's findings, statement of reasons and any recommended sanctions is to be submitted to the next ordinary meeting of the Council for its consideration. If an arbiter has found that a contravention of the Code has occurred, the Council may, after considering the arbiter's findings, statement of reasons and recommendation on sanctions, give any or all of the following written directions to the councillor:

- direct the councillor to make an apology in a form or manner specified by the Council;
- direct the councillor to not attend up to, but not exceeding, 2 meetings of the Council (in respect of the next scheduled meetings of the Council);
- direct that, for a period of up to, but not exceeding, 2 months on a date specified by the Council the councillor:
 - be removed from any position where the councillor represents the Council; and
 - to not chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.

A councillor who does not participate in the internal resolution procedure may be guilty of misconduct. The Act provides that misconduct by a councillor means any of the following:

- (a) failure by a councillor to comply with the Council's internal resolution procedure; or
- (b) failure by a councillor to comply with a written direction given by the Council under section 81AB; or
- (c) repeated contravention of any of the councillor conduct principles.

Allegations of misconduct are heard on application by a Councillor Conduct Panel.

9. Enforcement of Code

Breaches of this Code of Conduct will be enforced through the following processes:

- (a) If the allegation of a breach is from a councillor or councillors:
 - Refer the matter to the Dispute Resolution Procedures under the Code; and
 - If the matter is still unresolved a councillor or councillors may make application to the Councillor Conduct Panel established under the Act.

(b) If the allegation of a breach is from residents or the community:

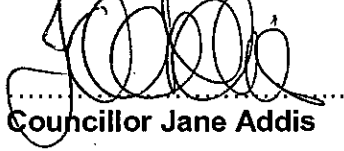
- Refer the allegation to the Mayor (unless the allegation relates to the Mayor) for initial investigation and determination of appropriate action; and/or
- Possible referral to the Independent Broad-based Anti-corruption Commission (IBAC) under the *Protected Disclosure Act 2012*; and/or
- If the allegation relates to the Mayor, the matter should be referred to the Chief Executive Officer in the first instance and the Chief Executive Officer will in turn refer the matter to the immediate past Mayor (if any) or a former Mayor. The immediate past Mayor (if any) or a former Mayor will deal with the matter in accordance with paragraph (a) above.

10. Review Period

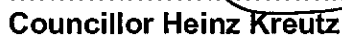
In addition to the statutory requirement to review the Code of Conduct within four months after each General Election, Council will review the Code of Conduct as required, to ensure the Code of Conduct remains relevant to the operations of Council.

11. Endorsement


In accordance with section 76C(6) of the Act, we the undersigned declare that we have read and will hereby abide by the Councillor Code of Conduct:


.....
Councillor Jane Addis

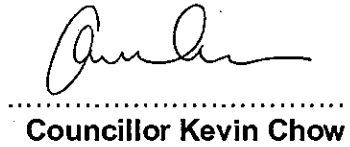

.....
Councillor Phillip Healey


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Councillor Heinz Kreutz


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Councillor Jim Parke


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Councillor Judith Voce



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Phillip Storer
Chief Executive Officer


.....
Councillor Kevin Chow


.....
Councillor Steve Hurd


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Councillor Philip Mallis


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Councillor Coral Ross


.....
Councillor Jack Wegman