

Councillor Code of Conduct

April 2016

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MAJOR POLICY SCOPE

This Code of Conduct is for Councillors. It forms part of Brimbank City Council's Governance Framework.

LOCAL GOVERNMENT ACT 1989

The *Local Government Act 1989 (the Act)* sets out the standards of conduct for Councillors and provides specific arrangements to deal with misconduct.

Section 76C of *the Act* requires councils to develop and approve a Councillor Code of Conduct that is taken to include the Councillor conduct principles. A Councillor Code of Conduct may also include any other matters relating to the conduct of Councillors the Council considers appropriate.

While *the Act* prescribes that Council develop a code of conduct, in all instances, this Code of Conduct is subordinate to all other legislation relating to local government and Councillors and must not act inconsistently with any other Act or regulation.

In accordance with Section 63 and 64 of *the Act*, a person elected to be a Councillor must take the oath, and make a written declaration they will abide by the Councillor Code of Conduct, within three (3) months after the day on which the person was declared elected. In accordance with Section 76C of *the Act*, the Councillor Code of Conduct must also be reviewed and adopted within four months of a municipal general election, at a Special Council Meeting. A Councillor must make a written declaration they will abide by the Councillor Code of Conduct within one month of amendments to the Code being approved.

The Councillor Code of Conduct does not apply to Council officers, who are bound by an Employees' Code of Conduct, which is also prescribed by *the Act*.

BRIMBANK CITY COUNCIL GOVERNANCE (MAJOR POLICY CONSULTATION) LOCAL LAW No.3

Major Policy - Purpose

This is a Major Policy, in accordance with the Governance (Major Policy Consultation) Local Law No.3. Council considers this policy to be of major significance, and has committed to a public and transparent consultation process that provides an opportunity for people affected, to address the Council.

Major Policy - Mandatory Consultation

Council, before creating, amending, modifying or revoking this Major Policy, will undertake a community consultation process as set out in the Governance (Major Policy Consultation) Local Law No.3.

Major Policy - Additional Consultation

Council may undertake additional consultation in accordance with Council's Community Engagement Toolkit.

Overviews to parts and sections, and boxed extracts from *the Act* and associated guides (such as Local Government Victoria's Reforms Arising from the *Local Government Amendment (Improved Governance) Act 2015 - A guide for councils (LGV Guide for councils)*), are explanatory notes and do not form part of this Code of Conduct. They are provided to assist understanding and outline statutory obligations. These may be updated from time to time to reflect legislative changes.

Major Policy
Major Policy
Major Policy

PART 1

CONDUCT



SECTION 1 - COMMITMENT, VALUES AND PRINCIPLES

Overview:

This section sets out the underpinning values that drive the way Councillors act and interact. The Statement of Commitment is a high level promise of how Councillors will govern the City responsibly and uphold the trust placed in them by the community.

1.1 Statement of Commitment

This Code of Conduct is a statement of how Councillors will behave and work with the Brimbank community, Councillor colleagues and Council officers.

All Councillors are committed to working together constructively as a team, to achieve the vision for the Brimbank municipality.

This Council respects its multicultural community, embraces its diversity and recognises the City's indigenous heritage.

Councillors acknowledge the obligation to represent, and act on behalf of, the whole Brimbank community.

Councillors acting together constitute 'the Council' and acknowledge that, as individuals, cannot bind the Council to any actions or decisions. Councillors will act to ensure decision making responsibilities are only exercised in Council Meetings.

This Code of Conduct is a commitment to governing the City effectively, and adhering to the principles of good governance.

1.2 Values and Behaviours

Councillors acknowledge and embrace Brimbank City Council's organisational values and behaviours:

- We show **Respect**
- We act with **Integrity**
- We work **Together**
- We **Communicate** openly
- We strive for **Excellence**.

1.3 Councillor Conduct Principles

Councillors will demonstrate high standards of conduct in providing representative governance for the benefit of the community.

Primary Principle

Section 76B of *the Act* sets the Primary Principle of Conduct, that in performing the role of a Councillor, the Councillor will:

- Act with **integrity**
- **Impartially** exercise their responsibilities in the interests of the local community
- **Not improperly seek** to confer an advantage or disadvantage on any person.

General Principles

Section 76BA of *the Act* requires a Councillor to also:

- **Avoid conflicts** between their public duties as a Councillor and their 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 officers and other persons
- **Exercise reasonable care** and diligence and submit themselves to the lawful scrutiny that is appropriate to their 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 them as a Councillor
- 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.

The LGV Guide for councils states: 'Councillors are expected to observe the principles of **integrity** and **good governance**. This must be done in all facets of the role – including decision-making, representing the community and in dealing with constituents.

Central to integrity and good governance are the principles of transparency and accountability. **Transparency** is achieved through following proper processes that are open to public scrutiny. **Accountability** is achieved through being accessible and responsive to the local community.'

1.4 Working Together

Councillors will behave in a transparent, collaborative and professional manner, for the betterment of the City of Brimbank.

Councillors value teamwork and commit to ensuring that:

- **Councillors will be honest:** acting with integrity, impartially, and in ways that build and maintain trust, including embracing a 'no surprises' approach in their interactions with each other and the organisation
- **Councillors will work with a genuine 'spirit of inquiry':** including being open-minded, valuing the experience and fresh ideas of others, and seeking to expand their knowledge and consider options before making a decision
- **Councillors will have regard for each other:** including listening and communicating respectfully, acknowledging each other's perspectives, and engaging in discussion on issues
- **Councillors will uphold the 'Community First' principle:** including listening and being responsive to the community, attending meetings and events, and being gracious in all their interactions.

Councillors recognise that collaborative discussion and planning is essential to the effective governance of the City of Brimbank, and will attend and participate in planning sessions and workshops organised by the Chief Executive Officer for the purpose of strategy and budget development.

1.5 Community Expectations

The community has high expectations of Councillors, who they trust as their representatives.

Councillors will regularly report back to the community on their legislative obligations and this Code, through the reporting mechanisms outlined in Section 11.

SECTION 2 - ROLES AND RELATIONSHIPS

Overview:

This section describes the statutory roles of Council, Councillors and the Chief Executive Officer and establishes the working relationship between Councillors and the organisation.

Brimbank City Council consists of Councillors (the representative arm) and the organisation/officers (the operational arm).

Good governance is dependent on effective, trusting relationships between the Councillors and the organisation, and an understanding of the distinction between the roles and responsibilities of Council and the organisation.

2.1 Role of Council

Council is responsible for setting the vision and strategic direction for the City of Brimbank, determining strategic policy and appointing the Chief Executive Officer of the organisation.

Section 3D of *the Act* states that the role of a Council includes:

- Acting as a representative government by taking into account the diverse needs of the local community in decision making
- Providing leadership by establishing strategic objectives and monitoring their achievement
- Maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner
- Advocating the interests of the local community to other communities and governments
- Acting as a responsible partner in government by taking into account the needs of other communities
- Fostering community cohesion and encouraging active participation in civic life.

2.2 Role of a Councillor

Section 65 of *the Act* states the role of a Councillor is to:

- Participate in the decision-making of the Council
- Represent the local community in that decision-making
- Contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

And in performing the role of a Councillor, a Councillor must:

- Consider the diversity of interests and needs of the local community
- Observe principles of good governance and act with integrity
- Provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under this Act and other Acts
- Participate in the responsible allocation of the resources of Council through the annual budget
- Facilitate effective communication between the Council and the community.

The Act also states 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.

The role of a Councillor is to act for the community and advocate on their behalf. A Councillor plays a key role in facilitating communication with the community and encouraging engagement with the activities of Council.

Councillors collectively constitute the 'Council'. As an individual, a Councillor cannot direct or bind the organisation to any actions or decisions. Councillors will act in accordance with the Councillor and Council Officer Interaction Protocol (Attachment 1).

In their decision-making roles, Councillors will consider the diversity of the community, the strategic direction set by the Council, and responsible resource allocation, demonstrating civic leadership and good governance.

Councillors will advocate for the needs of their constituents, but will make all decisions to benefit, and be in the best long-term interests of, the whole of the City of Brimbank.

■ 2.2.1 Political Affiliations

To ensure Councillors maintain a clear and primary duty to the Brimbank community, rather than a political body or other jurisdiction, Councillors will avoid conflicts of interest, or the appearance of conflicts of interest, that affiliation with political parties may create.

This will underpin the impartiality and ability of Councillors to act in the best interests of the local community. Councillors will not use Council resources (for example, technology, communications channels, events) to prepare or promote a political body or other jurisdiction.

2.3 Role of the Mayor

Section 73 of *the Act* sets precedence for the Mayor:

- The Mayor of a Council takes precedence at all municipal proceedings within the municipal district.
- The Mayor must take the chair at all meetings of the Council at which he or she is present.
- If there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the Councillors to be the acting Mayor.
- An acting Mayor may perform any function or exercise any power conferred on the Mayor.

Section 73AA of *the Act* sets out the functions of the Mayor of a Council to include:

- 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
- Acting as the principal spokesperson for the Council
- Supporting good working relations between Councillors
- Carrying out the civic and ceremonial duties of the office of Mayor.

While having no additional statutory power, other than as specified in *the Act*, the Mayor is the “leader” of the Council.

The role and responsibilities of the Mayor include:

- Being a leader and advocate for the community and principal Council spokesperson
- Chairing Council Meetings and ensuring and encouraging participation of Councillors in the decision-making process
- Maintaining a close working relationship with the Chief Executive Officer
- Leading and providing guidance to Councillors in relation to their role, conduct and working relationships, with this agreed Code as the basis for discussions
- Sustaining partnerships and advocating for Council's interests, and pursuing opportunities for the City in line with adopted policies, strategies and plans
- Representing the Council at civic functions and forums.

2.4 Role of the Deputy Mayor

Council may, by resolution, create the role of a Deputy Mayor. In Council's Governance (Meeting Procedure) Local Law No.1, Council must also resolve to appoint the person holding the position of Deputy Mayor as Acting Mayor if there is a vacancy in the office of Mayor, or the Mayor is absent or unable to act.

2.5 Role of the Chief Executive Officer

The Chief Executive Officer is the head of the organisation. The organisation is responsible for the implementation of Council policy and decisions, operational policy and procedures, service delivery and providing professional advice to Council.

The Chief Executive Officer will provide professional, relevant and timely information to the Council, and maintain a close working relationship that supports the Mayor.

Section 94A of *the Act* identifies the Chief Executive Officer as being responsible for:

- Establishing and maintaining an appropriate organisational structure for the Council
- Ensuring that the decisions of the Council are implemented without undue delay
- The day to day management of the Council's operations in accordance with the Council Plan
- Developing, adopting and disseminating a code of conduct for Council officers
- Providing timely advice to the Council
- Ensuring that the Council receives timely and reliable advice about its legal obligations under *the Act* and any other Act
- Supporting the Mayor in the performance of the Mayor's role as Mayor
- Performing any other function or duty of the Chief Executive Officer specified in *the Act* or any other Act
- 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*
- Appointing as many Council officers as are required to enable the functions of the Council under *the Act* or any other Act to be carried out and to enable the Chief Executive Officer to carry out their functions
- Appointing, directing, managing and dismissing Council officers and for all other issues that relate to Council officers.
- Managing interactions between Council officers and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council officers and Councillors.

2.6 Relationship Between Councillors and the Organisation

Councillors will act in accordance with the Councillor and Council Officer Interaction Protocol (Attachment 1).

Councillors will:

- Work cooperatively with the Chief Executive Officer and Council officers
- Communicate courteously and respectfully, and expect the same behaviour in return
- Contact the designated Council officer for each matter, as set out in the Protocol
- Recognise the role of Council officers to provide professional, 'best' advice to Council
- Not direct, or seek to direct, Council officers (including in the preparation of Council reports and recommendations)
- Not undermine or denigrate Council officers, including in Council Meetings, discussions with community members, or communication exchanges
- Act in accordance with Brimbank City Council's Equal Opportunity and Anti-Discrimination Policy (Attachment 2) and Prevention and Elimination of Bullying and Workplace Harassment Policy (Attachment 3).

2.7 Role of Delegate or Council Representative on Committees

The participation on a range of local specific issues committees established by Council, peak body/sector associations, and local and regional forums, is an essential part of Council's representative role. Council nominates or appoints representatives and delegates to these committees annually, or as needed.

A Councillor appointed as a delegate or representative to a committee will represent the position of Council, and report back to Council at an Ordinary Council Meeting on the issues or progress of the committee, and any recommendations made by the committee for Council to consider.

SECTION 3 - CONDUCT

Overview:

This section sets out the statutory provisions and protocols for the way Councillors conduct themselves and make decisions.

It also sets out how they may make use of the support of the organisation to fulfill their duties as a Councillor.

3.1 Appropriate Use of Council Resources

The LGV Guide for councils states: 'Councillors are responsible for ensuring the resources of Council are allocated efficiently and effectively to meet the needs of the community. In doing so, Councillors are expected to balance the competing needs of different sections of the community in deciding resource allocations within budget constraints. This requires an understanding of community needs alongside a commitment to sound financial management. It also encompasses ensuring the Council remains in a sustainable financial position into the future.'

Councillors are entitled to resources and facilities to support them in fulfilling their Council role. Councillors must only use Council resources for their Council duties, and in accordance with Part 2 of this Code of Conduct.

3.2 Access to Information

Councillors will be provided with relevant information to help them make informed decisions and fulfil their duties. This information may be publicly available, or in some instances, restricted or confidential. Councillors will act in accordance with the Councillor Access to Information Protocol (Attachment 4), including when requesting a briefing from Council officers or requesting information on Council files.

A Councillor will only request operational or confidential information in order to gain a broader understanding of an issue that falls under their role and responsibilities (for example, as a committee delegate), or if it relates to a matter currently before - or expected to come before - Council for a decision. Requested information will be provided to all Councillors, unless the Chief Executive Officer determines that providing the information is likely to be a breach of privacy, prejudice Council or any person, would undermine legal privilege or would be otherwise inappropriate. The Chief Executive Officer will provide all Councillors with information on any declined requests for information, including the reason the information was not able to be provided.

■ 3.2.1 Confidentiality and Privacy

Councillors must not release information they know, or should reasonably know, is confidential information. Privacy legislation outlines the appropriate use of personal information collected by Council, and places restrictions on what information can be accessed, disclosed or used by another person, including Councillors.

For confidential reports distributed to Councillors, the Chief Executive Officer will attach a covering memo, stating under which provisions of *the Act* the information is deemed confidential. All Briefing agendas (including all reports and attachments) will be designated confidential.

Councillors will only use confidential information provided for the purpose the information was provided for. A Councillor's access to information does not allow them to disclose any information or document to another person, unless that information is already publicly available.

Confidential information provided to Councillors in hard copy must be stored securely by them, and disposed of appropriately (by either shredding or returning to the Governance department). Confidential electronic information sent to Councillors must be stored securely and deleted when appropriate.

Release or disclosure of confidential information is specified as misuse of position in *the Act* and significant penalties, including up to five (5) years imprisonment, may apply. Further information regarding the provisions of *the Act* is contained in section 3.7.3.

3.3 Requests for Service/Complaints

A Councillor request for service is a request made by a Councillor on their own behalf, or on behalf of a community member, in accordance with the Councillor Request for Service Protocol (Attachment 5).

In its good practice guide, the Victorian Ombudsman advises, "To ensure transparency and fairness, complaints received by Councillors should be treated the same way as ones made to Council officers... [A Councillor] must not seek to direct or influence the complaint handling process."

The same service standards will apply to a Councillor request, as a request for service from a community member.

All requests will be entered into Council's customer service system, and sent to the appropriate Director for actioning. A Councillor may contact the relevant Director about the progress of the complaint, but must not direct or influence the process. Investigations and actions will be recorded and monitored, and status reports will be provided regularly to Councillors.

3.4 Conduct at Council Meetings

Council's Governance (Meeting Procedure) Local Law No. 1 2015 governs the conduct of Council Meetings and Special Committee meetings, and sets the general standards expected of Councillors.

The Chair plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed and statutory requirements are met.

Councillors will comply with the Governance (Meeting Procedure) Local Law and this Code of Conduct when participating in Council Meetings and Special Committee meetings. Councillors will act respectfully towards the Chair, their fellow Councillors, Council officers, guests and any community members or media attending the meeting.

3.5 Decision Making in the Community Interest

Councillors are required to make decisions in the best interests of Brimbank. Councillors agree to act fairly and without bias when making decisions that affect the rights and interests of others, and in accordance with 'natural justice'.

Councillors agree to listen to each other as matters are discussed in Council Meetings, and not pre-determine any matters prior to consideration at a Council Meeting. As part of this consideration, Councillors will take into account the outcomes of consultation or feedback from the community on a matter, and will comply with the Governance (Major Policy Consultation) Local Law No.3.

■ 3.5.1 Council Commitment

At the start of each Council Meeting, the Chair will affirm Council's commitment to good governance by stating Councillors:

- Understand and acknowledge their obligations under section 63 of the *Local Government Act 1989* (Oath/Affirmation of Office provision), and
- Will conduct the meeting in accordance with the Brimbank Governance (Meeting Procedure) Local Law No. 1 2015.
- Will behave in accordance with the Councillor Code of Conduct.

3.6 Formal Community Forums

Forums or committees are convened from time to time to enable community members to express their views in relation to a specific matter. Councillors invited or appointed to hear from the community may ask questions to clarify issues raised. Councillors must not behave or comment in a way that may be perceived as predetermining their own, or Council's, position in relation to a matter, or direct Council officer responses.

Formal community forums include:

- Planning Forums – coordinated by the City Planning department, and chaired by a Councillor. The purpose of the Planning Forum is for applicants and objectors to speak about their support/concerns regarding a planning application
- Section 223/Major Policy Consultation Committee (Hearing of Submissions) meetings – convened in accordance with Section 223 of *the Act* to hear from people in support of written submissions in relation to matters such as proposals to adopt a Budget, Council Plan or Local Law
- Single issue consultation forums – coordinated by the department responsible for a proposal or response to a community issue, single issue forums will be arranged as required.

While all formal in nature, and may comprise some or all of the Councillors, these forums are not meetings of the Council and have no decision making authority.

3.7 Statutory Conduct Requirements

There are four (4) key conduct matters governed by *the Act*, where a breach can result in significant consequences:

■ 3.7.1 Misuse of Position

Councillors will not use their position, or knowledge gained in their role, to disadvantage Council or someone else, or advantage themselves or someone else.

Section 76D of *the Act*, a person who is or has been a Councillor or a member of a special committee must not misuse their position:

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

Misuse of position includes:

- Making improper use of information acquired as a result of the position they hold/held
- Disclosing information that is confidential
- Directing or improperly influence a Council officer (or seeking to)
- Exercising or performing, or purporting to, a power, duty or function that they are not authorised to perform
- Using public funds or resources in a manner that is improper or unauthorised
- Failing to disclose a conflict of interest.

Penalty: 600 penalty units or imprisonment for 5 years or both.

■ 3.7.2 Improper Direction

Councillors will not use their position to direct or influence Council officers in any of their power, duties or functions.

Under Section 76E of *the Act*, a Councillor must not:

- Direct, or seek to, Council officers:
 - In the exercise of a delegated power, duty or function
 - In the exercise of a power, duty or function as an authorised officer
 - In the exercise of a power, duty or function the officers exercises under *the Act* or any other Act
 - In relation to advice provided to the Council or a special committee, including advice in a report to Council or a special committee.

Penalty: 120 penalty units.

■ 3.7.3 Breach of Confidentiality

Councillors must observe the confidentiality of the information they receive in the course of performing their duties and responsibilities, and must not convey (electronically, verbally, or in writing) information they know, or should reasonably know, is confidential.

Section 77 of *the Act* states a person who is, or has been, a Councillor must not disclose information that the person knows, or should reasonably know, is confidential information.

Penalty: 120 penalty units.

Information is confidential information if:

- (2)(a) The information was provided to the Council or a special committee in relation to a matter considered by the Council or special committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential, or
- (2)(b) The information has been designated as confidential information by a resolution of the Council or a special committee which specifies the relevant ground or grounds applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential, or
- (2)(c) The information has been designated in writing as confidential information by the Chief Executive Officer specifying the relevant ground or grounds applying under section 89(2) and the Council has not passed a resolution that the information is not confidential.

Confidential information designated by the Chief Executive Officer (2)(c) ceases to be confidential at the expiry of the period of 50 days after the designation is made, unless subsection (2)(a) or (2)(b) applies to the information.

Section 89 (2) of *the Act* sets out grounds for designating information as confidential:

- (a) personnel matters
- (b) the personal hardship of any resident or ratepayer
- (c) industrial matters
- (d) contractual matters
- (e) proposed developments
- (f) legal advice
- (g) matters affecting the security of Council property
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person
- (i) a resolution to close the meeting to members of the public.

Councillors will treat Council information appropriately by:

- Not using information gained by virtue of being a representative for any purpose other than to exercise their role as a Councillor

- Adhering to Council's protocol in relation to public comments and communication with the media
- Not releasing information deemed 'Confidential Information'
- Recognising the requirements of the *Privacy and Data Protection Act 2014* regarding the access, use and release of personal information
- Adhering to this Code of Conduct when seeking to access Council information (refer to Attachment 4).

■ 3.7.4 Conflict of Interest

Councillors will be aware and mindful of actual, and possible perceptions of, conflicts of interest. **The decision about whether a conflict of interest exists can only rest with the individual Councillor.**

Sections 77A to 80A of *the Act* cover conflicts of interest.

The Act defines two types of interest – direct and indirect – that must be declared as conflicts of interest. *The Act* also sets out exemptions to conflicts of interest.

A Councillor has a **direct** conflict of interest in a matter if there is a reasonable likelihood that their benefits, obligations, opportunities or circumstances would be directly altered if the matter is decided in a particular way, including where they are likely to directly gain or lose financially.

A conflict of interest also exists where a Councillor has one or more of six (6) types of **indirect interest**:

1. An indirect interest because of a **close association** when a family member, relative or housemate has a direct interest
2. An **indirect financial interest**, including holding shares above a certain value in a company with a direct interest
3. A **conflict of duty** arising from having particular responsibility to a person or organisation with a direct interest
4. Having received an **applicable gift (including hospitality)** or gifts with a total value of more than \$500 within the five years preceding, from a person or organisation with a direct interest
5. Being a **party to the matter** by having become a party to civil proceedings in relation to the matter
6. Where there is a reasonable likelihood that their **residential amenity** will be altered if the matter is decided in a particular way.

Section 79B of *the Act* addresses conflicts relating to Personal Interest (such as close connections to a matter or a person involved in the matter, that is not captured by direct or indirect interests).

If a Councillor considers they have a personal interest in relation to a matter that is in conflict with their public duty, the Councillor may, immediately before the matter is considered at a meeting, apply (providing the reason) to the Council or Special Committee to be exempted from voting on the matter. The Council will vote to determine whether the Councillor should be exempted.

A Councillor who fails to disclose a conflict of interest is guilty of an offence.

Penalty: 120 penalty units.

Councillors must disclose any conflicts of interest in accordance with *the Act* and the Councillor Conflict of Interest Protocol (Attachment 6) in or before:

- Council Meetings and Special Committee meetings
- Audit and Risk Management Committee meetings, Section 223 Hearing Committees, and Major Policy Hearing Committees
- Meetings classified as an Assembly of Councillors.

In all cases, a Councillor will make the disclosure before any discussion or consideration of the matter and leave the meeting.

3.7.4.1 Assembly of Councillors

Section 3 of *the Act* includes the definition of an Assembly of Councillors.

An Assembly of Council is a planned or scheduled meeting comprising at least half of the Councillors and one Council officer, or an advisory committee with at least one Councillor present, that discusses or considers matters that are likely to be:

- The subject of a Council decision, or
- Subject to the exercise of a power or duty under delegation by a person (including Council officers) or committee.

Section 80A of *the Act* requires a Councillor attending an Assembly of Council to:

- Disclose the conflict of interest and leave the assembly while the matter is being discussed and considered
- Disclose the conflict of interest either before the matter is considered, or when a Councillor becomes aware they has a conflict of interest.

In accordance with *the Act*, a written record of an Assembly of Council will be reported to the next practicable Council Meeting and recorded in the minutes.

Councillors should refer to the State Government's Conflict of Interest - A Guide for Councillors (2012) for further guidance, and seek their own legal advice if required, in relation to their individual conflicts of interest.

3.8 Register of Interests

In accordance with Section 81 of *the Act*, Councillors must lodge a primary return within seven (7) days of taking office, and an ordinary return every six (6) months while in office.

3.9 Gifts and Hospitality

3.9.1 Acceptance and Declaration of Gifts and Hospitality

Receipt of a gift from a person or organisation can result in a conflict of interest (as an applicable gift) under *the Act*, including monetary or in-kind gifts, and campaign donations. It is illegal for a Councillor to accept an anonymous gift valued at \$500 or more.

A Councillor may be offered gifts or hospitality from members of the public or other organisations. While these offers are usually genuine in nature, they can give rise to perceived inappropriate relationships and potential conflicts of interest (and possible breaches of *the Act*).

Offers of gifts can include free or discounted goods, property, money (including loans), free or discounted services (memberships, accommodation, travel, entertainment, sporting events etc.). Hospitality can include invitations to hosted events and functions, including corporate boxes and ticketed events.

Councillors will comply with the Councillor Gifts Protocol (Attachment 7). Councillors will not accept a gift or hospitality if it could be perceived as intended to, or likely to, influence them in the fair, impartial and efficient discharge of their duties. Councillors will not solicit gifts or hospitality, and will not accept any offers of money.

If a Councillor receives a gift for Council, for example, an artwork, from an external organisation, delegation or person, the Councillor will present it to the Chair at the next Ordinary Council Meeting, for retention by Council.

Purchasing or contributions by a Councillor (on behalf of Council) at any auction, community fundraising event or similar, is not permitted without the authority of Council.

A Councillor must disclose receipt of any gifts and hospitality on the gift declaration form, for recording in Council's gift register.

■ 3.9.2 Giving Civic Gifts

A civic gift is a gift given on behalf of the Council. Types and financial thresholds for civic gifts are set in the Councillor Gifts Protocol (Attachment 7). The purchase or giving of civic gifts other than as provided by the Protocol, must be determined by the Chief Executive Officer.

■ 3.9.3 Reporting Inappropriate Offers

A Councillor must notify the Chief Executive Officer of any inappropriate offer of a gift or hospitality. The Chief Executive Officer will determine an appropriate course of action, including possible investigation and/or referral to a relevant authority.

Councillors must act in accordance with the Brimbank City Council Protected Disclosure Policy & Procedure (Attachment 8).

3.10 Conduct During Election Periods

Under Section 93B of *the Act*, a council must prepare, adopt and maintain an election period policy in relation to procedures to be applied by Council during the election period for a general election.

An election period policy must include:

- Procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election
- Limits on public consultation and the scheduling of Council events
- Procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

Inappropriate decisions made by a Council during an election period includes:

- Decisions that would affect voting in an election
- Decisions that could reasonably be made after the election.

Councillors will continue to fulfil their duties during an election period (unless they are granted a leave of absence).

A Councillor must comply with the Conduct During Elections Policy (Attachment 9) and must not use Council resources for candidacy, or any purpose that may be perceived as being used for candidacy (individual or political party). Such use would constitute misuse of position by the Councillor.

The policy applies to a Councillor standing in local, state, or federal government elections. It also applies for any other elected positions, for example, positions on boards.

If Council resolves to support a Councillor's candidacy for a board or other (non-government) elected position, Council will, at the same time, also resolve the level of Council resources that may be used to support the candidacy. Resources will only include administrative support (correspondence, application forms etc), telephone and data allowance and payment of travel costs. In the absence of a resolution by Council regarding the level of resources, the Chief Executive Officer must determine the level of resource support to be made available. Council cannot resolve to support a Councillor's candidacy in a government election.

During a municipal election period (commencing 32 days before election day), Councillors:

- Will continue to engage and communicate with the community in their Councillor role
- Must comply with *the Act*, and
- Must not use their position to influence Council officers, or access Council resources or information, in support of any election campaign or candidacy.

Section 55 of *the Act* imposes limitations on Council publications during a local government general election period (prohibiting 'electoral matter' which is intended or likely to affect voting in an election).

A council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless it has been certified, in writing, by the Chief Executive Officer, that it does not contain 'electoral matter'.

Section 93A of *the Act* sets out major policy decisions that must not be made during a general election period:

- The employment, remuneration or termination of the Chief Executive Officer
- Contracts exceeding specified values (\$150,000 for goods and services, and \$200,000 for works contracts, or one per cent of the Council's revenue - whichever is higher)
- Entrepreneurial ventures exceeding specified values (\$100,000, or one per cent of the Council's revenue, whichever is higher).

In accordance with the Conduct During Elections Policy (Attachment 9), Council will not consider or make any decisions during an election period that would, or could be perceived to, affect voting in an election, or unfairly commit the incoming Council to a major course of action, or could reasonably be made after the election. This includes delegated decisions.

The only items to be considered at an Ordinary or Special Council Meeting, or Special Committee Meeting, held during the election period, will be the Annual Report, and procedural items to complete the Council's term of office.

Council will not undertake any community consultations (other than statutory consultations, for example, planning) or events during the election period. This includes promotion of upcoming consultations or events held after the election period. Councillors may continue to attend community events during the election period, but no support for any formal role will be provided by Council officers (for example, a speech).

Existing Council programs and services for the community will continue as business as usual during the election period. Policies and protocols for use of Council resources, and Councillor-issued communications (as listed in the Schedule to this Code (p46)) continue to apply during election periods. The Chief Executive Officer will be the primary spokesperson for Council communications.

The organisation will respond to all requests for Council information – including projects, programs or services – by candidates (including Councillors) in a business as usual manner.

In accordance with the Conduct During Elections Policy, Councillor candidates will be treated the same as other candidates in relation to access to Council information. Councillors may continue to access Council information and public documents during the election period, but only as it is necessary for them to perform their current role and functions. A log of information requested by candidates will be managed by the Governance Team, and published on Council's website for the duration of the election period, including a summary of response and/or link to any requested public document.

3.11 Councillor Eligibility

Division 3 of *the Act* describes the qualifications for eligibility to hold the office of a Councillor. It also describes the circumstances in which a Councillor may become ineligible or disqualified from holding office.

Under Section 29 of *the Act*, a person is not capable of becoming or continuing to be a Councillor or nominating as a candidate in an election if they have failed to make a declaration stating they will abide by the Councillor Code of Conduct (in accordance with Section 76C).

A Councillor must notify the Chief Executive Officer in writing as soon as practicable of any change in circumstance that affects their right or eligibility to hold office as a Councillor.

SECTION 4 - CIVIC REPRESENTATION PROTOCOLS

Overview:

This section sets out the protocols relating to civic representation, communication and events. It provides clarity around the separation of a Councillor's individual communications and the expression of Council's official position. The civic leadership role of the Mayor is enshrined in this section.

4.1 Multimember Ward Representation

Councillors will share information and work collaboratively with their fellow ward Councillor(s) on ward based issues and initiatives.

In relation to sharing information, a Councillor will inform their fellow ward Councillor(s), the Mayor and the Chief Executive Officer, and then the remaining Councillors if appropriate.

4.2 Representations By Members of Parliament

Councillors have a legitimate role in advocating on behalf of their communities. At times, this may include the receiving of representations by a Member of State or Federal Parliament, to Council or Councillors.

Councillors must declare and record any representations made to a Councillor (including correspondence or a verbal request) by a Member of Parliament (or their staff).

The declaration must include details of any perception of influence on a decision of Council, or pressure exerted on a Councillor. A Councillor must make the declaration to the Chief Executive Officer in writing, and also report to a Council Meeting or Special Committee meeting, prior to voting on a relevant motion.

Councillors must advise Members of Parliament making representations to Council that their representation will be reported to Council.

4.3 Media Relations

Councillors will endeavour to ensure the messages communicated through the media are clear, honest and consistent, and positively portray the Council as a decisive and responsible governing body.

■ 4.3.1 Council Media Relations

All official Council media relations will be organised through the Media and Communications Department. Councillors will comply with the Brimbank City Council Media Protocol (Attachment 10).

The Mayor is the official media spokesperson on behalf of Council, where the Council has an official position on the matter and where the matter is of a political, controversial or sensitive nature. These include:

- Issues relating to the strategic direction of Council and the City of Brimbank
- Issues relating to policy and Council decisions
- State or Federal political issues affecting local government
- Local issues that impact the community that do not relate directly to Council services and functions.

If the Mayor is unavailable as spokesperson, the Deputy Mayor (if any) will become the primary spokesperson. If they are not available, the Mayor, in consultation with the Chief Executive Officer, will delegate the role to an appropriate Councillor.

Relevant issue-based Councillor committee representatives will be notified of any Council media activity relating to that issue.

The Chief Executive Officer is the official spokesperson for all operational matters relating to the organisation, including:

- Staffing and structure of the organisation
- Corporate issues relating to service provision or the day-to-day business of Council.

The Chief Executive Officer may delegate their media authority to a Council officer.

4.3.1.1 Media Releases, Responses and Interviews

Media releases, responses and interviews will only quote the Mayor, unless otherwise agreed by the Mayor.

Photo opportunities will be arranged in conjunction with a media release to illustrate and create interest in a particular issue, event or project. Not all media releases will require a photo opportunity, and it will not always be appropriate to include a Council spokesperson, or Councillor, in a photo opportunity. A Councillor may be invited to appear in a photo opportunity, but if unable to attend, the photo opportunity may not be able to be rescheduled to suit the Councillor's availability.

4.3.1.2 Media Briefings

A media briefing provides detailed information on a major issue or project. Media briefings will be arranged on an as needs basis, as determined by the Chief Executive Officer, Director Corporate and Community Relations or Manager Media and Communications. The primary spokesperson, and key experts, will attend. All information disclosed during a media briefing is public record and can be used by a journalist.

■ 4.3.2 Councillor's Own Media Relations

Councillors can express their independent views through the media; however, must make it clear any comment is their personal view, and does not represent the position of Council.

Councillors must not pre-empt Council's scheduled media opportunities. Before a Councillor undertakes a media opportunity, they will notify their fellow Councillors, the Chief Executive Officer and the Manager Media and Communications. Any individual media opportunities must not contain Brimbank City Council material or branding.

4.4 Social Media

Social media offers opportunities for dialogue between Councillors and the community, and can lead to more effective communication and access to services. However, there are also significant confidentiality, governance, legal, privacy and regulatory risks relating to Council's, and a Councillor's, use of social media.

Councillors must act in accordance with the Brimbank City Council Electronic Media Policy (Attachment 11).

Councillors must comply with all relevant laws and regulations (especially those relating to identity and representation), respect competitors and detractors and adhere to Council's confidentiality, legal and privacy guidelines. Councillors will be clear about their identity and any vested interests. Only publicly available information will be disclosed.

Councillors will redirect enquiries for Council services through Council's customer service, and must not commit Council officers to actions or undertakings.

■ 4.4.1 Council's Social Media

Council's social media presence is managed by the Media and Communications Department, and the conventions for other Council communications apply. Responses to any questions asked to Council via social media will be coordinated through the Media and Communications Department. Where it is appropriate that response come directly from the Mayor, Media and Communications will post the approved comment on their behalf.

Councillors engaging the community on Council's social media will ensure their contribution is accurate, appropriate, helpful and informative. They will correct any identified errors immediately. If asked to remove materials pertaining to another person for privacy reasons, a Councillor will immediately do so.

■ 4.4.2 Councillor's Own Social Media

If a Councillor manages their own personal or Councillor social media presence, they will include a prominent disclaimer that states the views are their own, and do not represent the position of Council.

If a Councillor wishes to include their Councillor social media address on their Councillor business card, they should ensure no political party content is posted.

4.5 Council Publications and Advertising

All official Council publications and advertising will be coordinated and approved by the Media and Communications Department, who retain editorial control (content and design). Councillors will not seek to influence or direct officers in relation to the design, content or distribution of Council publications.

■ 4.5.1 Brimbank Buzz

A monthly Mayor's column will be prepared by Media and Communications, and approved by the Mayor, for the Brimbank Buzz (advertorial and blog).

4.6 Council and Community Events

■ 4.6.1 Event Roles

The Mayor is the primary Council representative for events. If the Mayor is unavailable, the Deputy Mayor (if any) will become the primary representative. If they are not available or there is no Deputy Mayor, the Mayor, in consultation with the Chief Executive Officer, will delegate the role to a Councillor. Councillor representatives to issues-based committees will be notified of relevant events.

Where there is a significant event link to a Councillor as a committee representative or delegate, the Mayor may choose to delegate their role to the appropriate Councillor.

■ 4.6.2 Council Events

Council event protocols are overseen by the Media and Communications Department. The Mayor will undertake any official role, and the Chief Executive Officer or delegate will act as master of ceremonies (MC) if required.

Invitations for Council events will be issued from the Mayor. All Councillors will receive an invitation to Council organised or sponsored events.

Wording for plaques commemorating the opening of Council facilities will be approved by the Director Corporate and Community Relations.

■ 4.6.3 Ministerial Events

If Council has received significant State or Federal funding for a project, event or facility, the responsible Minister will be invited by the Mayor to officially launch the project. The letter of invitation to the Minister from the Mayor will be issued through the Media and Communications Department. The Mayor will host the visiting Minister, including the official welcome, and appropriate acknowledgements.

If a Minister advises Council of their intention to visit the municipality or host a media opportunity, the Chief Executive Officer, Director Corporate and Community Relations, or Manager Media and Communications, will notify Councillors (in accordance with the Minister's embargo protocols).

■ 4.6.4 Community/External Events

Councillors may receive invitations to speak at or attend external events.

Participation and any cost/reimbursement will be assessed in accordance with this Code of Conduct (Part 2 – Support). The Governance Department will coordinate event arrangements for Councillors.

A Councillor must not accept a speaking role at an event without notifying the Mayor and the Chief Executive Officer. A Councillor must not offer Council resources (including advertising) to a community member, group or organisation.

■ 4.6.5 Speeches

Speeches will be prepared by the Media and Communications Department for the official Councillor role at Council and external events. Speeches will reflect Council's position and not include individual points of view. Approved speeches will usually be provided to the Councillor one week prior to the event (unless a late speech request is received).

If a Councillor wants a speech to be altered, they will discuss changes with the Manager Media and Communications, and a revised speech will be provided. Any inclusions must be consistent with Council's adopted position on a matter.

■ 4.6.6 Councillor's Own Events

Councillors are able to conduct their own events, but should make it clear the event is not a Council endorsed or organised event. No Council resources will be used in the promotion or conduct of the event, including speech preparation. A Councillor will notify their fellow Councillors and the Chief Executive Officer if they are planning an event or meeting.

4.7 Mayoral Robe and Chain

The Mayoral robe and chain signifies the office of the Mayor. The Mayor may choose to wear one or both at official functions of the Council. The Manager Governance will act as custodian of the robe and chain and ensure their security.

Given its significant value, the chain is only to be worn at functions held at the Brimbank Council Offices, Citizenship ceremonies, or where appropriate security measures are in place.

SECTION 5 - ACCOUNTABILITY - INTERNAL RESOLUTION PROCEDURE

Overview:

This section sets out the statutory requirements and internal resolution procedure for addressing any alleged contraventions or breaches of the Councillor Code of Conduct.

Under Section 76C and Division 1AB of *the Act*, a Councillor Code of Conduct must include the internal resolution procedure for dealing with an alleged contravention of the Code.

The internal resolution procedure for a council must:

- Be specified in the Councillor Code of Conduct
- Incorporate any prescribed processes including any application process
- Provide for the selection of an arbiter who is suitably independent and able to carry out the role of an arbiter fairly
- Specify the role an arbiter is expected to undertake in the conduct of any internal resolution procedure, including that the arbiter must consider applications alleging a contravention of the Code by a Councillor and make findings in relation to any application alleging a contravention of the Code, which the arbiter must give to the Council
- Provide processes to ensure that parties affected by an application alleging a contravention of the Councillor Code of Conduct are given the opportunity to be heard by the arbiter
- Specify that the Council and the Councillor the subject of any application made alleging a contravention of the Councillor Code of Conduct are to be given written reasons for any findings made by an arbiter.

Section 3(1) of *the Act* provides definitions for misconduct, serious misconduct and gross misconduct by a Councillor.

Misconduct by a Councillor means any of the following:

- Failure by a Councillor to comply with the Council's internal resolution procedure
- Failure by a Councillor to comply with a written direction given by the Council
- Repeated contravention of any of the Councillor Conduct Principles.

Serious misconduct by a Councillor means:

- Failure of a Councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor, or
- Failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give, or
- Failure of a Councillor to comply with a direction of a Councillor Conduct Panel, or
- 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
- Bullying of another Councillor or Council officer by a Councillor, or
- Conduct by a Councillor in respect of a Council officer, in contravention of Section 76E (improper direction/influence), or
- The release of confidential information by a Councillor in contravention of Section 77.

Gross misconduct by a Councillor means behaviour that demonstrates that a Councillor is not of good character or is otherwise not a fit and proper person to hold the office of Councillor.

Bullying by a Councillor means the Councillor repeatedly behaves unreasonably towards another Councillor or Council officer, and that behaviour creates a risk to the health and safety of that other Councillor or Council officer.

The LGV Guide for councils states: 'The hierarchy for management of Councillor conduct issues is designed to:

- Reinforce the responsibility and authority of councils to manage breaches of agreed conduct through a mandatory internal resolution procedure
- Only escalate management of misconduct and serious misconduct to panels when councils cannot resolve the matter internally
- Give panels greater powers to manage and resolve misconduct and serious misconduct
- Retain the capacity to manage gross misconduct through VCAT.'

Degree of Seriousness	Definition	Responsible Authority	Consequence
Conduct inconsistent with standards council has set itself	Breaches of Councillor Code of Conduct	Council	<ul style="list-style-type: none"> • Mediation • Training • Counselling
Misconduct	Failing to comply with a Council's internal resolution procedure, including failure to abide by any decision of Council in relation to a breach of the code and repeated breaches of Councillor conduct principles	Panel	<ul style="list-style-type: none"> • Reprimand • Apology • Leave of Absence (maximum 2 months) • Ineligible to be Mayor (maximum 4 years)
Serious misconduct	Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct	Panel	<ul style="list-style-type: none"> • Suspension (maximum 6 months) • Reprimand • Apology • Leave of Absence (maximum 2 months) • Ineligible to be Mayor (maximum 4 years) • Ineligible to chair special committee
Gross misconduct	Behaviour that demonstrates lack of character to be a Councillor	VCAT	<ul style="list-style-type: none"> • Disqualification (maximum 8 years) • Ineligible to be a candidate (maximum 8 years)

Divisions 1 A, 1AB, 1B, 1C and 1D of Part 4 of *the Act* detail the requirements of Councillor Conduct Panels, the State-appointed Principal Councillor Conduct Registrar, and referral of a complaint to a Municipal Monitor appointed by the Minister for Local Government.

All Councillors are accountable for their own conduct and will act in accordance with this Code of Conduct. Councillors will follow this Code of Conduct's procedure for addressing alleged contraventions of this Code of Conduct by a Councillor.

5.1 Protected Disclosures

If a confidentially-reported contravention of the Councillor Code of Conduct falls under the provisions of the *Protected Disclosures Act 2012*, the discloser will be advised they must report the matter directly to the Independent Broadbased Anti-Corruption Commission (IBAC).

All other matters will be dealt with through the Internal Resolution Procedure. The implementation of the procedure will be supported by the Principal Conduct Officer (Governance Manager).

5.2 Internal Resolution Procedure

■ 5.2.1 Guiding Principles

The guiding principles of the procedure are:

- Every Councillor has a right to be heard, and treated respectfully
- Councillors are committed to maintaining a positive working relationship with fellow Councillors and Council officers
- Councillors involved in the internal resolution procedure will participate in good faith, recognising their role to represent and act in the best interests of the community.

■ 5.2.2 Notification of an Alleged Breach of the Councillor Code of Conduct

The person/group alleging the contravention by the Councillor, will notify the Mayor and/or CEO verbally/in writing. An alleged contravention of this Code of Conduct may also be actioned if witnessed by the Mayor and/or CEO.

On becoming aware of an alleged contravention of this Code of Conduct, the Mayor/Chief Executive Officer will:

- Inform the Mayor/Chief Executive Officer of the alleged breach (confidentially), and together, determine if a conciliation meeting is appropriate
- Inform the Councillor allegedly in breach of the Code of Conduct (including the nature of the breach) and either:
 - a. Request, in writing, they attend a conciliation meeting, or
 - b. Advise, in writing, that the Chief Executive Officer will appoint an independent arbiter to investigate and assess the allegation of a breach, or
 - c. In the case of alleged serious misconduct or gross misconduct, the Chief Executive Officer will escalate the matter to the Chief Municipal Inspector (and Police if a criminal matter).

If an allegation of a breach of the Councillor Code of Conduct is made about the Mayor, the Deputy Mayor will act in place of the Mayor, for the purpose of this procedure. If Council has not resolved to have the position of a Deputy Mayor, then the Chief Executive Officer will determine the appropriate action, in accordance with this procedure.

■ 5.2.3 Conciliation Meeting

If determined appropriate by the Mayor/Chief Executive Officer, a conciliation meeting will be held with the Councillor alleged of the breach, and, if appropriate, the Councillor/other party that notified of the alleged breach, or was the subject of the alleged 'misconduct'.

This meeting will be chaired by the Mayor and/or Chief Executive Officer, and will aim to achieve an outcome acceptable to the parties.

In some cases of minor breaches, the Mayor and/or Chief Executive Officer will propose a non-negotiable outcome. If the Councillor alleged of the breach:

- a. Denied the breach, or
- b. Accepted the breach but refused to accept the non-negotiable outcome, or
- c. Did accept and enact the outcome but were then responsible for subsequent repeated behaviour of a similar nature or another alleged breach;

Then the matter will proceed to a formal process of the Chief Executive Officer appointing an independent arbiter to investigate and assess the matter. In the instance of a subsequent, repeated, behaviour or alleged breach, both alleged breach matters will be investigated and assessed by the independent arbiter.

■ 5.2.4 Alleged Breach Investigation by an Independent Arbiter

The Chief Executive Officer will appoint an independent arbiter to investigate and assess alleged contraventions by a Councillor of the Councillor Code of Conduct.

The Chief Executive Officer will consider:

- The nature of the alleged breach, and
- The parties to the alleged breach,

before appointing an arbiter the Chief Executive Officer is satisfied is independent from the parties involved in the alleged breach, and has the appropriate qualifications and experience.

The Chief Executive Officer may consider appointing an arbiter from the Institute of Arbiters and Mediators or a similar body. An arbiter selected by the Chief Executive Officer may be used for any subsequent investigations.

In investigating the matter, the arbiter will meet and hear from all parties involved, and provide a fair, timely and due process. All Councillors involved in the matter will cooperate with the independent arbiter and provide information as requested.

The arbiter will assess the information, and provide a written report containing their findings, and reasons supporting the findings.

The written report will be provided to the Chief Executive Officer, who will circulate the report to the Mayor and Councillors.

■ 5.2.5 Council to Determine Sanctions/Directions of the Council

Following the receipt of the independent arbiter's report, Council will consider a report at a Council Meeting open to the public, that includes:

- The report from the independent arbiter (except where the report must be considered in a closed session, as determined by the Chief Executive Officer in accordance with confidentiality provisions of the Act)
- The findings of the independent arbiter
- The options for sanctions against a Councillor found to have contravened the Council Code of Conduct, for Council to determine, or a recommendation the matter be referred to a Councillor Conduct Panel (application to make a finding of misconduct or serious misconduct)
- The cost to the Council of conducting the Internal Resolution Procedure.

If a report is required to be considered in a closed session of the Council Meeting, the Council resolution, including the decision of the independent arbiter, any sanctions against a Councillor or referral of the matter to a Councillor Conduct Panel, and the cost to the Council of conducting the Internal Resolution Procedure, will be resolved to be immediately publically released.

Under Section 81AB of *the Act*, a Council can impose any or all of the following sanctions on a Councillor found to have breached the Councillor Code of Conduct:

- 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, two (2) Council Meetings (next scheduled meetings)
- Direct that, for a period of up to, but not exceeding, two (2) months commencing 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, special committee meeting, assembly of Councillors or any other meeting specified in the direction.

Any Directions of the Council, including sanctions and/or a decision that the matter will be referred to a Councillor Conduct Panel as an application to make a finding of misconduct or serious misconduct, will be provided in writing by the Mayor and/or Chief Executive Officer to the Councillor found to have breached the Councillor Code of Conduct.

5.3 Councillor Conduct Panel

Divisions 1A-1D of *the Act* detail the provisions for Councillor Conduct Panels and the State-appointed Principal Councillor Conduct Registrar.

A Councillor Conduct Panel may make a finding of misconduct or serious misconduct against a Councillor. The Chief Municipal Inspector will make all applications for cases of alleged gross misconduct to the Victorian Civil and Administrative Tribunal (VCAT) for determination.

In the event that an allegation of a contravention of the Councillor Code of Conduct by a Councillor cannot be resolved by the Internal Resolution Procedure, it will be referred as an application to the Principal Councillor Conduct Registrar to establish a Councillor Conduct Panel. An application to establish a Councillor Conduct Panel can also be made if a Councillor fails to comply with the Internal Resolution Procedure, repeatedly breaches the Councillor Conduct Principles, or fails to comply with a written Direction of Council, as these constitute 'misconduct' under *the Act*.

An application to establish a Councillor Conduct Panel can be made by:

- Council resolution
- A Councillor
- A group of Councillors.

If the application is accepted by the Principal Councillor Conduct Registrar, they will convene a Councillor Conduct Panel formed by two independent members. The Panel will operate in accordance with *the Act*, and is bound by the rules of natural justice.

As Council will bear the cost of any Councillor Conduct Panel, Councillors will consider this as a final option for resolution. The costs associated with a Councillor Conduct Panel will be reported to a Council Meeting open to the public. The Principal Councillor Conduct Registrar will also publish the Councillor Conduct Panel's findings and decisions.

Major Policy
Major Policy
Major Policy

PART 2

SUPPORT



SECTION 6 - RESOURCES SUPPORT

Overview:

This section recognises the support Councillors require to serve, engage and act in the best interests of the community.

It covers civic and resource support for Councillors, and the reimbursement of out-of-pocket expenses. Councillors should put in place processes for documenting their claimable expenses. They should also seek their own financial and taxation advice.

This section references Councillors; however reimbursement of expenses may also include those incurred by Council committee members in attending meetings or performing the endorsed duties of the committee.

Section 75B of *the Act* requires councils adopt and maintain a policy in relation to the reimbursement of expenses for Councillors and Councillors committees.

A Council must reimburse expenses if the Councillor:

- Applies in writing to the Council for reimbursement of expenses, and
- Establishes in the application to Council the expenses were reasonable bona fide Councillor out-of-pocket expenses incurred while performing their duties.

'Duties' means those performed by a Councillor that are necessary or appropriate for the purposes of achieving the objectives of a Council having regard to any relevant Act, regulations, Ministerial guidelines or Council policies.

Section 75C of *the Act* requires a Council to make available prescribed minimum resources and facilities for the Mayor and Councillors.

In accordance with the State Government's Policy Statement on Local Government Mayoral and Councillor Allowances and the accompanying Information Guide for Mayor and Councillor Entitlements, the prescribed Resources and Facilities to be made available are:

Mandatory Resources/Facilities:

- Administrative Support for the Mayor
- Office for the Mayor
- Vehicle for the Mayor
- Computer – Desktop or Laptop
- Mobile Phone and Landline
- Stationery
- Access to Fax/Copier
- Website Development as part of Council website.

Reimbursement:

- Travel – including Reimbursement of Public Transport Costs
- Phone – Reimbursement of Relevant Call Costs
- Internet
- Child Care/Family Care.

And that as a matter for Council determination, the following be considered:

- Access to Pool Car for Councillors
- Office Space and Furniture.

Approval Arrangements – Mayor and Councillor Entitlements

- Approval is required for all Councillors undertaking discretionary trips and interstate travel and attendances at conferences. At a minimum, the Chief Executive Officer should be the approval authority in accordance with the Council's predetermined policy.*
- All overseas travel should be by resolution of full Council.
- The Council's policy should specify any additional approval arrangements required by the Council.

**Brimbank City Council policy is for approval by the Council in accordance with the agreed criteria.*

S. 79C of *the Act* states there is no conflict of interest for a Councillor in setting Councillor allowance levels or adopting a reimbursement of expenses policy.

6.1 Official Council Duties

For this Part of the Code of Conduct, 'official Council duties' are defined as a Councillor attending:

- Ordinary and Special Council Meetings or Committees of Council
- Formal briefing sessions and planning forums
- Civic or ceremonial functions convened by the Council or presided over by the Mayor
- Meetings scheduled by the Council or the Mayor
- A meeting, function or other official role as a representative of the Council or Mayor
- Meetings of community groups, organisations and statutory authorities to which the Councillor has been appointed Council delegate/representative
- Conferences, study tours/official visits (domestic and overseas), seminars and training sessions as a Councillor where attendance has been approved by Council or in accordance with this Code. This includes travel to and from air, rail or bus ports when embarking on interstate or international Council business.

6.2 Allowances

Section 74A (2) of *the Act* provides for payment of annual allowances to the Mayor and Councillors, within the category range set by the Governor in Council. A Council must review and set the allowance amount within the category range within six (6) months of a general election, or by 30 June the following year.

Councillors will also be paid an amount equivalent to the superannuation guarantee, as published by the Minister for Local Government. A Councillor may choose to have this paid into their superannuation, or may take it as an addition to their allowance.

Council must review and set the allowance amount for the Mayor and Councillors, in accordance with *the Act*. Allowances are taxable income. Any personal taxation implications are the responsibility of the Councillor. A Deputy Mayor (if any) or acting Mayor, will be paid the same allowance as a Councillor.

6.3 Office Facilities

■ 6.3.1 Mayor's Office

An office – including a computer and landline phone – will be provided for the Mayor at the Brimbank Offices/Community and Civic Centre, to carry out their duties.

■ 6.3.2 Councillor Offices

Councillors will be provided with a shared office area at Brimbank Offices/Community and Civic Centre, reserved for Councillor use. Councillor offices will be equipped with three workstations, including landlines and a multifunctional device (to scan, print, email, and copy), a lounge and dining area, and a separate meeting room. The shared office area will be suitable for office work, reading, research, and small meetings. Visitors will only be provided access if accompanied by a Councillor.

■ 6.3.3 Offices Access and Parking

A Councillor will be provided with a security (swipe) card allowing 24 hour access to the Councillor offices. The Mayor will also have access to the Mayor's office. Designated shared car parking spaces will be available close to the Brimbank Offices/Community and Civic Centre.

■ 6.3.4 Meeting Rooms

Councillors can book Council meeting rooms, subject to availability, for meetings where the primary purpose is for the Councillor to carry out their duties. The Councillor must be in attendance.

■ 6.3.5 Meals/Refreshments

Where Council or Committee Meetings are held at times that extend through normal meal times, Council will provide suitable meals/refreshments served on the premises.

Councillor Offices will be stocked with light refreshments for Councillors undertaking their duties at the Brimbank Offices/Community and Civic Centre. Alcohol will not be served or made available, except at official Council functions, as approved by the Chief Executive Officer.

6.4 Communication/Technical Equipment

■ 6.4.1 Phone, Computer, Internet, Printer and Fax/Copier

Equipment

Councillors will be provided with an iPhone and an iPad, in accordance with Council's ICT procurement contracts. The devices will be Wi-Fi and mobile data enabled. In car phone kits will be provided if required. Councillors will be provided with a maximum 6GB data plan to enable their duties as a Councillor. A Councillor with personal WiFi at their residence can be provided a reimbursement of up to \$50 a month for use of the WiFi for Councillor duties. A multifunctional device (to scan, print, email, copy) will be provided in the Councillor Offices, to facilitate communication relating to a Councillor's duties.

Councillors will not have access to delete any Council standard applications provided on the iPhone and iPad. For the safety and protection of these Council assets, cases will be provided for both. If either asset is taken out of their case, it is the responsibility of a Councillor to replace it with one of their own.

On presentation of a broken or faulty device to the Manager Governance by a Councillor, Council will replace or repair the item. Broken items will only be replaced once per year per Councillor. A Councillor must report a stolen device to the Victoria Police and to the Manager Governance as soon as possible. Stolen devices will be replaced.

All equipment remains the property of Council and is recorded on Council's Asset Register.

Use

Councillors must act in accordance with Brimbank City Council's Mobile Phone Policy (Attachment 3), Acceptable Use of ICT Resources Policy (Attachment 4), Mobile Computing Device Policy (Attachment 5), Internet & Email Security Policy (Attachment 6), and the Information Security Policy (Attachment 7).

Council phones and mobile data enabled devices will be provided to support a Councillor to undertake their duties, however, it is recognised that for practical reasons, a Councillor may make a reasonable number of non-Council related calls. They may also make reasonable personal use of mobile devices, including mobile data.

Each Councillor will be responsible for determining the personal use to be reimbursed to Council. The Chief Executive Officer will also determine where a Councillor's personal phone or data use charges is beyond reasonable limits, and require reimbursement.

International calls will not be considered reasonable use unless a Councillor is conducting Council business (such as making arrangements for a conference/tour that has been approved by a resolution of Council). Telephone calls to information/service providers which incur a significant per minute charge will normally not be considered reasonable use. App store purchases will not be covered by Council and must be reimbursed. Councillors must not, under any circumstances, use Council provided equipment for private business purposes, including making telephone calls and using data (internet / email).

Councillors electing to use their own equipment will be entitled to receive a reimbursement package to cover the costs of equipment use and consumables expenses relating to Councillor duties, in accordance with this Code.

Reimbursing Council

Itemised bills will be provided to each Councillor on a monthly basis. Councillors will reimburse Council in accordance with Section 10 of this Code of Conduct, on a monthly basis. Failure to reimburse Council for personal use that is deemed to be beyond reasonable limits by the Chief Executive Officer will be considered a breach of this Code.

6.5 Administration Support

■ 6.5.1 Administrative Support – Mayor

Administrative support will be provided to the Mayor for work directly related to the duties of office. All support will be overseen by the Director of Corporate and Community Relations, and undertaken by the Governance Department.

■ 6.5.2 Administrative Support – Councillors

Limited administrative support is available to Councillors for work directly related to their duties of the office. All support will be overseen by the Director of Corporate and Community Relations, and undertaken by the Governance Department.

■ 6.5.3 Councillor Portal

All information for Councillors, including Council information papers, agendas and minutes, will be available through the Councillor portal. Hard copy information, such as invitations, will be scanned and emailed, and available for pick up in the designated area of the Councillor offices.

■ 6.5.4 Stationery

Standard Council stationery will be made available in the shared Councillor offices. Stationery will include paper, writing implements and pads, USB drives, envelopes and a diary (on request). Councillors will not modify Council stationery in any way and will only use reasonable supplies for carrying out their duties of office. The supply of stationery will be organised by the Governance Department.

■ 6.5.5 Photocopying

A Councillor may request small amounts of photocopying directly related to carrying out their duties of office. Any request must be made to the Governance Department.

■ 6.5.6 Newspapers/Publication Subscriptions

Council will provide Councillors with an internally-produced media monitoring record (Media Watch). Subscriptions to the Age and Herald Sun online newspapers will be available.

Council will provide Councillors with subscription copies of key local government industry publications, as approved by the Chief Executive Officer.

■ 6.5.7 Photographs

On request, Council will provide Councillors with access to the Council image library for carrying out their duties of office. The images remain the property of Council (copyright) and must only be used by Councillors for a specified and approved purpose.

Councillors will be able to update their official Councillor headshot (using a Council-engaged photographer) each year.

Images must not be used by a Councillor for any personal, business, political or election-related material. All image access and use must be approved by the Manager Media and Communications.

■ 6.5.8 Name Badges

Each Councillor will be provided with a Councillor name badge (approved Councillor format) for use while carrying out their duties of office.

■ 6.5.9 Business Cards

Each Councillor will be provided with a Councillor business card (approved Councillor format) for use while carrying out their duties of office.

On request, the business card may include a Councillor's Facebook, LinkedIn or other social media address (set up and maintained by a Councillor for the purposes of their role), but not a personal Facebook, LinkedIn or other social media address.

6.6 Family Care

Service

Council will reimburse the reasonable out of pocket carer expenses incurred by a Councillor when undertaking official Council duties, as listed in sub-clause 6.1, and where they are the primary care giver.

Use

Family care expenses include child care for children 0-15 years inclusive, specific home care for elderly or infirm immediate family members, and any other form of care needed to support a dependant.

Council will reimburse the Councillor for carer expenses paid to:

- An accredited child care/attendant care provider, or
- A person providing care who does not:
 - Have a familial or like relationship with the Councillor, or
 - Reside either permanently or temporarily with the Councillor, or
 - Have a relationship with the Councillor or his or her partner such that it would be inappropriate for Council to reimburse monies paid to the care provider.

Reimbursement

Requests for reimbursement will be processed on receipt of the following by the Manager Governance:

- Councillor Claim Form
- Receipt (clearly identifying the provider, type of service, date and time of service, hourly rate and hours of service, provider signature and total payment received)
- A Statement by a Supplier Form required if the provider does not quote an Australian Business Number (ABN).

Fees will be payable per hour or part of an hour (subject to any minimum period which is part of the provider's usual terms). Maximum fees will be determined as rates not exceeding reasonable market rates available within the municipality.

Councillors must make claims for reimbursement for family care within one month of incurring the expense.

6.7 Support for Councillors with a Disability

The Chief Executive Officer will assess and approve reasonable support - through additional facilities and expenses - to allow a Councillor with a disability to perform their duties of office.

6.8 Health and Wellbeing

■ 6.8.1 Counselling

Councillors may be able to access Council's Employee Assistance Program (EAP) counselling service - Councillor Support, to assist with their health and wellbeing during their term of office. Access to this program can be requested through the Chief Executive Officer or Director Corporate and Community Relations.

■ 6.8.2 Protective Clothing

Councillors will be loaned protective clothing to meet safety requirements in carrying out the duties of office (for example, high visibility vests for site visits). The Councillor will return any protective clothing at the completion of the activity/duty.

6.9 Transport

■ 6.9.1 Motor Vehicle for the Mayor

Service

The Mayor will be provided with a vehicle selected in accordance with Council's Fleet Policy (and including all associated costs such as servicing, fuel, insurance). The vehicle will be traded in accordance with Council's vehicle replacement policy, unless otherwise authorised by the Chief Executive Officer.

Use

The Mayor will use the vehicle primarily to carry out their duties of office, and may also use the vehicle for reasonable private use.

The Mayor must comply with all parking restrictions and road rules, and is personally liable for any infringement penalties received.

Reimbursement

If the Mayor does not require a Council motor vehicle, and chooses to use their private vehicle/s to carry out their duties of office, an amount equivalent to the mean average vehicle operating cost for a medium vehicle, as published by the RACV from time to time, will be paid monthly to the Mayor to cover expenses associated with servicing, fuel and insurance.

■ 6.9.2 Private Vehicle Use

Use

Councillors (other than the Mayor - refer to 6.9.1) will be reimbursed for out of pocket expenses relating to private vehicle use while undertaking official Council duties.

Councillors must comply with all parking restrictions and road rules, and are personally liable for any infringement penalties incurred.

Reimbursement

Requests for reimbursement will be processed on receipt of the following by the Manager Governance:

- Councillor Claim Form – including purpose, date, origin and destination, kilometres travelled, and any tolls.

Councillors will be reimbursed in accordance with the rates prescribed in the *Victorian Local Authorities Award 2001*, as varied from time to time.

Councillors must make claims for reimbursement for private vehicle use within one month of the use.

■ 6.9.3 Car Parking

Use

Councillors will be reimbursed for reasonable paid car parking use while undertaking official Council duties.

Reimbursement

Requests for reimbursement will be processed on receipt of the following by the Manager Governance:

- Councillor Claim Form – including details of duty of office, date, time period and location.
- Receipt.

Councillors must make claims for reimbursement for paid car parking within one month of the use.

■ 6.9.4 Public Transport

Use

Councillors will be reimbursed for public transport use while undertaking official Council duties.

On request to the Manager Governance, a Councillor will be provided with a Myki card for use. Any personal use should be reimbursed to Council.

If a Councillor uses their own Myki card, they will be reimbursed for any use related to undertaking official Council duties.

Reimbursement

Requests for reimbursement will be processed on receipt of the following by the Manager Governance:

- Councillor Claim Form – including details of duty of office, date, time period and location.
- Receipt/printed Myki Statement with use related to Councillor duties highlighted.

Councillors must make claims for reimbursement for use of public transport within one month of the use.

■ 6.9.5 Taxis

Use

Councillors will be reimbursed for taxi use where the expense was incurred undertaking official Council duties.

On request to the Manager Governance, a Councillor will be provided with a cab charge for use. Any personal use must be reimbursed to Council.

If a Councillor does not have a cab charge and incurs a taxi expense, they will be reimbursed for use while undertaking official Council duties.

Reimbursement

Requests for reimbursement will be processed on receipt of the following by the Manager Governance:

- Councillor Claim Form – including details of duty of office, date, time and origin and destination
- Receipt.

Councillors must make claims for reimbursement for use of a taxi within one month of the use.

■ 6.9.6 Car Share Schemes

Councillors wishing to use a car share scheme are responsible for managing the booking and logistics. Council will not pay or reimburse annual subscription or registration fees for car share schemes. Council will reimburse use of car share schemes where the expense was incurred undertaking official Council duties.

Councillors must comply with all parking restrictions and Road Rules, and are personally liable for any damage, or infringement penalties received.

Reimbursement

Requests for reimbursement will be processed on receipt of the following by the Manager Governance:

- Councillor Claim Form – including details of duty of office, date, time and origin and destination
- Receipt/printed Car share scheme statement with use related to Councillor duties highlighted.

Councillors must make claims for reimbursement for use of a car share scheme within one month of the use.

■ 6.9.7 Access to Council's Motor Vehicle Pool

Use

Where practicable, and by prior arrangement through the Governance Department, a Council pool vehicle may be made available to Councillors for travel outside the municipality, where use of private vehicles or other means of transport is not possible.

Councillors must fill out the logbook in a pool vehicle.

Councillors must comply with all parking restrictions and Road Rules, and are personally liable for any infringement penalties received.

Reimbursement

- Not applicable. Expense will be reported in accordance with section 11.

6.10 Return of Support Equipment

All Council equipment issued to a Councillor (including phone, computer, Myki cards etc.) must be returned by a non-returning Councillor to the Governance Department within one week of the end of term.

SECTION 7 - PROFESSIONAL DEVELOPMENT AND CIVIC REPRESENTATION

Overview:

This section outlines appropriate training and development support for Councillors necessary to perform their duties of office. It also sets the resources support available for the civic representation aspect of their role, including attendance at local events and community engagement.

Under Section 12 of the *Local Government (General) Regulations 2015*, Council is required to make available for public inspection all details of overseas or interstate travel undertaken in an official capacity by Councillors (with the exception of interstate travel by land for less than 3 days), including name, date, destination, purpose and total cost to Council of the travel.

Councillors may participate in professional development opportunities that will increase their skills and knowledge relevant to their duties of office, and improve their effective community representation and advocacy.

7.1 Conferences, Professional Development Courses and Training

Induction

New Councillors will be supported in their role through the provision of a comprehensive induction program arranged by the Chief Executive Officer, incorporating relevant sessions organised by local government peak bodies.

Ongoing Development

Councillors will seek assistance from the Chief Executive Officer or the Director Corporate and Community Relations to analyse their particular requirements and identify appropriate courses and training to meet their needs.

The selection of any professional development opportunities will be based on relevance to the individual Councillor and their specific development requirements.

Councillors may attend conferences, professional development courses and training that:

- Relate directly to the duties and responsibilities of the Councillor
- Are organised by a Local Government peak body/association - MAV, VLGA, ALGA, ALGWA, etc.
- Are a governance and leadership course approved by the Chief Executive Officer, such as the Australian Institute of Company Directors (AICD) course
- Have a 'demonstrable benefit' for the City of Brimbank
- Are specific needs based training approved by the Chief Executive Officer, including media, chairing, public speaking and social media use.

Expenses Covered

Council will pay the following expenses for Councillor attendance at conferences, professional development courses, and training:

- Registration
- Dinner/Meals
Payment for the conference dinner, if any, and all meals, for the duration of the conference/course, within reasonable limits. Separate charges for alcohol consumption will not be covered.
- Accommodation
If the conference/course is held outside of metropolitan Melbourne, appropriate accommodation will be booked and paid for from the day prior to the commencement of the conference/course and each day on which official sessions are held.
Minibar and room phone charge will not be covered. Any additional accommodation costs incurred as a result of the attendance of partners, children or other guests shall be borne by the Councillor.
- Transport
Council will provide a Councillor with transportation to, from and during the conference/course that are related to the duties of office. As appropriate, transport arranged will be by:
 - Aircraft – Economy Class
 - Taxi
 - Private/Council vehicle (including car parking)
 - Train/bus – economy class
 - Hire car – up to standard 6 cylinder.

Requirements and Limits

A Councillor will discuss their desire to attend any interstate or overseas conferences/professional development courses/study tours/training, with the Chief Executive Officer, prior to any arrangements being made.

All interstate and overseas travel by a Councillor will require approval by resolution of Council at a meeting open to the public.

The total maximum annual expenditure for attendance at conferences, professional development course, study tours or training, directly related to their role, is:

- \$8,000 (plus GST) for the Mayor
- \$4,000 (plus GST) for a Councillor.

A Councillor proposing to attend a conference/professional development course/study tour/training with a total cost to Council in excess of \$2,000 (plus GST) will require approval by resolution of Council at a meeting open to the public.

All registration, travel and accommodation arrangements and payment of costs will be organised by the Governance Department. Councillors will provide the Manager Governance with a reconciliation (including receipts) of all expenditure incurred within five (5) business days of return, for the statutory registers to be updated.

Reimbursement (for incidental expenses only)

- Councillor Claim Form – including details of conference/course, expense incurred, date, time period and location.
- Receipt(s).

Councillors must make claims for reimbursement for incidental expenses incurred while attending conferences, professional development courses or training, within one month of use.

Accountability

Within two (2) weeks of return from any conferences/professional development course/study tour/training approved by a resolution of Council, the Councillor must provide a written delegate's report for inclusion at the next practicable Ordinary Council Meeting.

7.2 Planning Sessions

Councillors will participate in Council planning sessions and workshops organised through the Chief Executive Officer. The costs of these sessions, and any associated accommodation, meals, and travel, will be paid for by Council.

7.3 Local Events and Functions

Attendance at local events and functions is a key part of a Councillor's representative role.

Councillors will carefully consider if their attendance at an event or function truly relates to the duties of office, and whether community resources should be used to pay for their attendance.

Under Section 78C(1)(a) of the Act, an indirect interest because of receipt of an applicable gift does not include (a) reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, a Councillor staff or a member of a special committee

Hospitality is a gift where a Councillor attends an event or function:

- From free tickets the Councillor received and they have NO official duties to perform, or
- With free membership, or
- Where the hospitality is generous e.g. a two-three course meal with wine at an unpaid training event.

Councillors will act in accordance with *the Act* and the Councillor Gifts Protocol (Attachment 7).

Events Covered

Council will cover the cost for Councillors to attend paid events that:

- Are Council-organised or Council-sponsored
- Are held by councils, groups or organisations in the City of Brimbank or the Western Metropolitan Region and have a 'demonstrable benefit' to the local community
- Melbourne-based events hosted by key community partners/stakeholder organisations, where an official invitation is received and the Councillor has been invited in an official capacity and attendance has been approved by resolution of Council or the Chief Executive Officer
- Are not incongruent with any Council policies or resolutions, for example, gambling, and attendance can reasonably be seen to support the achievement of Council's objectives.

The cost of a Councillor's partner or guest will not be covered by Council, and may constitute an applicable gift under *the Act* for the Councillor if accepted free of charge.

The Chief Executive Officer, in consultation with the Mayor, will determine appropriate events for Council to purchase 'a table', if invited to do so. In principle, a table should be purchased only if 50 per cent or more of Councillors are able to attend.

Requirements

All event registration and payment for Councillors will be organised by the Governance Department. Council will only cover the cost of the ticket price, and any incidental expenses relating to transport, car parking or family care.

Reimbursement (for incidental expenses only)

- Councillor Claim Form – including details of event/function, expense incurred, date, time and location.
- Receipt(s).

7.4 Civic Hosting

All formal civic hosting, for example, Council hosting a visiting delegation, will be by approval by Council resolution. The resolution will include the benefit to the City of Brimbank in providing the hosting function. Council will not enter into any formal 'sister city' or like arrangements. Where insufficient notice is provided for Council to consider hosting a delegation, the Chief Executive Officer will determine whether the visit is to be approved.

All approved civic hosting arrangements will be organised and paid for by the Governance Department, as approved by the Chief Executive Officer.

7.5 Community Engagement

Council will support Councillors in their engagement activities with the community through the following:

■ 7.5.1 Local Area Forums

In accordance with Council's Community Engagement Policy, Councillors will be able to participate in local area forums – north, central, southern – which are a scheduled quarterly program of engagement and conversation opportunities with the community.

Councillors will use their own personal resources to produce and distribute any ward updates, newsletters or social media presence/page.

■ 7.5.2 Festivals and Events

Councillors will be invited to attend any Council-run stalls at key festivals and events in the City, to engage with residents and visitors.

■ 7.5.3 Online Engagement

Each Councillor will be provided with a web page on Council's website – containing their official headshot photo, contact details, ward map, representation on committees, and ward meeting details. By request, this web page can also link to an externally-hosted and resourced webpage or social media page that a Councillor maintains (disclaimer will be included).

SECTION 8 - LEGAL AND INSURANCE

Overview:

This section outlines the legal and insurance protections, and support exemptions, for Councillors.

8.1 Legal

Councillors will comply with all relevant laws and regulations and adhere to Council's confidentiality, legal and privacy requirements. Councillors will act in accordance with the Equal Opportunity and Anti-Discrimination Policy (Attachment 2) and Prevention and Elimination of Bullying and Workplace Harassment Policy (Attachment 3).

A Councillor may seek legal advice at their own expense – including advice relating to conflicts of interest – but must not direct Council officers to do so. Council will not pay for any legal advice organised or commissioned by a Councillor (including advice that relates to their duties of office or Council matters). Any legal advice relating to Council matters will be procured through the Chief Executive Officer (or their delegate), in accordance with Section 94A of *the Act*.

Councillors may have legal protection against defamation under 'qualified privilege' when undertaking their duties of office, however, only when comments are made in good faith and without malice. This includes comments made in a Council Meeting, to the media, at events, in hard copy or electronic publications (emails, sms or on social media sites). In the event a Councillor makes an intentional defamatory comment, Council will not provide resources to legally defend the Councillor, and the Councillor may face disciplinary action and/or could be sued.

8.2 Insurance

Councillors are covered under the following Council insurance policies on a 24 hour basis while undertaking their duties of office, including attendance at meetings of external bodies as Council's representative or delegate:

- Public Liability
- Professional Indemnity
- Councillors and Officers Liability.

Council will pay the insurance policy excess in respect of any claim made against a Councillor arising from carrying out their duties of office, where a claim is accepted by Council's insurers and the action has not been found to be a breach of this Code of Conduct.

Council equipment provided to Councillors is covered for damage or theft under Council's insurance policies. Councillors are expected to exercise due care in protecting the equipment from damage or theft. Councillors must provide information requested annually for insurance purposes, to ensure appropriate level of cover.

8.3 Occupational Health and Safety and Work Cover

Councillors will ensure they follow Occupational Health and Safety requirements while undertaking their duties of office. A Councillor injured while carrying out their duties may be entitled to claim workers compensation under the Accident Compensation Act 1985. Each case will be determined based on individual circumstances.

SECTION 9 - EXCLUSIONS

Overview:

This section sets out the exclusions to reimbursement of expenditure by Councillors.

Any expenditure not specified in this Code of Conduct is the responsibility of the Councillor.

Council will not reimburse any claims made outside of the timeframes specified. If a Councillor does not claim a particular expense within the designated timeframe, this cannot be claimed as an additional amount for another expense.

Any expenses arising for a Councillor from a breach of road, traffic, parking or other regulations or laws, will not be reimbursed or funded by Council.

Any expenses relating to legal advice or insurance, as set out in Section 8.

Council will not provide reimbursement for immediate family members/associates attending conferences, seminars, training, planning sessions, or corporate hospitality or events.

Councillors are ineligible for the Brimbank City Council employee discount rate for membership to Council's aquatic centres, as under legislation, they are not able to receive an employee financial benefit.

SECTION 10 - REIMBURSEMENT

Overview:

This section outlines the timeframes and requirements for reimbursement for, and by, Councillors. Claims by Councillors will only be for reasonable, bona fide out-of-pocket expenses incurred while performing their duties of office.

10.1 Timeframe for Claims

Councillors will submit their claims for reimbursement on a monthly basis, to ensure equitable public reporting of expenses, and management within Council's financial cycle.

All claims for an ending financial year must be finalised and submitted to the Manager Governance by the end of that financial year. Claims submitted outside the financial year they were incurred, will only be reimbursed with the approval of the Chief Executive Officer (excepting expenses incurred in the month of June, which must be claimed by the end of July).

Claims by a Councillor for a previous term must be finalised within one month of a Brimbank City Council election or by-election. After this time, the entitlement of the Councillor to claim the expense ceases.

10.2 Reimbursement

Councillors will act in accordance with this Code of Conduct and the Councillor Reimbursement Protocol (Attachment 18) to claim reimbursement of expenses.

Council will reimburse approved expenses in accordance with its financial processes (including scheduled payment runs and electronic funds transfer only).

■ 10.2.1 Forms and Receipts

Councillors will use the Councillor Claim Form (Attachment 18) when claiming reimbursement. A Councillor must provide fully detailed receipts for any expenses incurred in accordance with this Code of Conduct.

■ 10.2.2 Councillor Reimbursing Personal Use

A Councillor is only able to reimburse Council for personal expenses paid by Council, by:

- Providing written authorisation to the Manager Governance to deduct the amount from their next allowance payment, or
- A Councillor making payment via Council's Customer Service. A copy of the receipt must be provided to the Manager Governance by the Councillor.

SECTION 11 - REPORTING

Overview:

This section outlines Council's reporting commitment to its community, in relation to support expenses and and public information .

11.1 Governance Declaration and Reporting

Any matters required to be reported under this Code of Conduct will be included in the quarterly Governance Report presented to Council in open session at an Ordinary Council Meeting.

This will include quarterly, and annual cumulative details, of individual Councillor support expenses, against allocated limits, for items including:

- Travel
- Child Care/Family Care
- Conferences, Seminars, Training
- Individual Memberships
- Mobile Phone and Tablet (including replacement costs - unless faulty)
- Events and Hospitality

The quarterly report will also include details of claims, including justification, received from Councillors that were approved by the Chief Executive Officer (or delegate) to be paid outside the one month limit for claims.

This information will also be made available on Council's website for the current term of office.

■ 11.1.1 Limit for Claims

The financial limit for claims in a financial year is to be based on the time the expense was incurred and not the date the claim was made.

11.2 Public Information

Under *the Act*, and in the interest of transparency and accountability, the following information relating to Councillors duties is also made publically available:

- Councillor Code of Conduct - available on Council's website
- Details of current allowances fixed for Councillors - available in the Council Minutes and Annual Report (on Council's website)
- Details of overseas or interstate travel undertaken in an official capacity by Councillors in the previous twelve months. (with the exception of interstate travel by land for less than 3 days) - available for inspection in the public register (on application).

COUNCIL ADOPTION OF CODE

This Code of Conduct documents the manner in which Brimbank City Councillors will conduct themselves, in order to provide the community with the highest standards of democratic and civic governance.

The Councillor Code of Conduct has been developed in accordance with section 76C of the *Local Government Act 1989*. It is a requirement under Section 63 of *the Act*, for a Councillor to take the oath of office, and read, and make a declaration in writing, witnessed by the Chief Executive Officer, that they will abide by the Councillor Code of Conduct.

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: 

Date: 8/11/16

Councillor Daniel Allan

Witnessed: 

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: 

Date: 8/11/16

Councillor Lucinda Congreve (nee Bailey)

Witnessed: 

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: 

Date: 8/11/16

Councillor Victoria Borg

Witnessed: 

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: _____

Date: 8/11/16

Councillor Sam David

Witnessed: _____

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: _____

Date: 8/11/16

Councillor Margaret Giudice

Witnessed: _____

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: _____

Date: 8/11/16

Councillor John Hedditch

Witnessed: _____

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: _____

Date: 8/11/16

Councillor Bruce Lancashire

Witnessed: _____

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: 

Date: 8/11/16

Councillor Georgina Papafotiou

Witnessed: 

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: 

Date: 8/11/16

Councillor Duyen Anh Pham

Witnessed: 

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: 

Date: 8/11/16

Councillor Virginia Tachos

Witnessed: 

Date: 8/11/16

Paul Younis, Chief Executive Officer

I hereby declare that I have read the Councillor Code of Conduct Major Policy for Brimbank City Council (adopted on 19 April 2016) and declare that I will abide by this Code.

Signed: 

Date: 8/11/16

Councillor Kim Thien Truong

Witnessed: 

Date: 8/11/16

Paul Younis, Chief Executive Officer

SCHEDULE - Documents Incorporated by Reference

Councillors will comply with the policies and protocols included in the Documents Incorporated by Reference.

Documents Incorporated by Reference may be added or removed from the Schedule by Council resolution.

Documents in this Schedule may be amended from time to time, and the amended documents remain incorporated by reference.

Conduct

Attachment 1 - Councillor and Council Officer Interaction Protocol

Attachment 2 - Brimbank City Council (BCC) Equal Opportunity & Anti-Discrimination Policy

Attachment 3 - BCC Prevention and Elimination of Bullying and Workplace Harassment Policy

Attachment 4 - Councillor Access to Information Protocol

Attachment 5 - Councillor Request for Service Protocol

Attachment 6 - Councillor Conflict of Interest Protocol

Attachment 7 - Councillor Gifts Protocol and Declaration of Gift Form

Attachment 8 - BCC Protected Disclosure Policy and Procedure

Attachment 9 - BCC Conduct During Elections Policy

Attachment 10 - BCC Media Protocol

Attachment 11 - BCC Electronic Media Policy

Attachment 12 - BCC Risk Management Policy

Support

Attachment 13 - BCC Mobile Phone Policy

Attachment 14 - BCC Acceptable Use of ICT Resources Policy

Attachment 15 - BCC Mobile Computing Device Policy

Attachment 16 - BCC Internet & Email Security Policy

Attachment 17 - BCC Information Security Policy

Attachment 18 - Councillor Reimbursement Protocol and Councillor Claim Form

REFERENCES

Good Governance - Including Decision Making	<ul style="list-style-type: none"> • www.goodgovernanceguide.org.au • Ensuring Unbiased Democratic Council Decision Making 2013 - State Government
Councillor Code of Conduct	<ul style="list-style-type: none"> • <i>Local Government Act 1989</i> Section 76C • Guide to Councillor Conduct Arrangements 2013 - State Government
Roles and Functions: Council Mayor Councillor Chief Executive Officer	<i>Local Government Act 1989:</i> <ul style="list-style-type: none"> • Part 1 A Local Government Charter, Section 3D and 3F • Section 73 and 73AA • Section 65 • Section 94A • Reforms Arising from the <i>Local Government Amendment (Improved Governance) Act 2015</i> - A Guide for Councils - State Government
Councillor Conduct Principles	<ul style="list-style-type: none"> • <i>Local Government Act 1989</i> Section 76C and Section 63 and 64 • Reforms Arising from the <i>Local Government Amendment (Improved Governance) Act 2015</i> - A Guide for Councils - State Government
Misuse of Position	<i>Local Government Act 1989</i> Section 76D
Improper Direction	<i>Local Government Act 1989</i> Section 76E
Breach of Confidentiality	<i>Local Government Act 1989</i> Section 77

Conflicts of Interest	<p><i>Local Government Act 1989</i> Sections 77A to 80A</p> <ul style="list-style-type: none"> • Section 77A – Direct and indirect interests • Section 77B – Direct Interest • Section 78 – Indirect interest by close association • Section 78A – Indirect interest that is an indirect financial interest • Section 78B – Indirect interest because of conflicting duties • Section 78C – Indirect interest because of receipt of an applicable gift • Section 78D – Indirect interest as a consequence of becoming an interested party • Section 78E – Indirect interest because of impact on residential amenity • Section 79 – Disclosure of conflict of interest • Section 79B – Conflicting personal interest • Section 79C – Certain situations where Councillor taken to not have a conflict of interest • Section 79D – Person may make submission despite conflict of interest <ul style="list-style-type: none"> - Conflict of Interest - A Guide for Councillors 2012 - State Government
Misconduct , Serious Misconduct and Gross Misconduct	<i>Local Government Act 1989</i> Section 3(1) of the Act
Eligibility (Qualification) to be a Councillor	<i>Local Government Act 1989</i> Division 3
Contraventions of the Code - Councillor Conduct Panels, Registrar, Municipal Monitor	<ul style="list-style-type: none"> • <i>Local Government Act 1989</i> Divisions 1 A, 1AB, 1B, 1C and 1D of Part 4 • Reforms Arising from the Local Government Amendment (Improved Governance) Act 2015 – A Guide for Councils – State Government
Support	<p><i>Local Government Act 1989</i> Section 75</p> <ul style="list-style-type: none"> • Section 75 – Reimbursement of Expenses of Councillors • Section 75A – Reimbursement of Expenses of Councillors Committees • Section 75B – Councillor Reimbursement Policy • Section 75C – Resources and Facilities for Councillors Reimbursement

Reference Materials

- Reforms Arising from the *Local Government Amendment (Improved Governance) Act 2015* – A Guide for Councils (Victorian State Government)
- Conflict of Interest - A Guide for Councillors 2012 (Victorian State Government)
- Mayor and Councillor Entitlements – Reimbursement of Expenses and Provision of Resources and Facilities Support for Victorian Mayors and Councillors 2008 (Victorian State Government)
- Councils and Complaints – A Good Practice Guide 2015 (Victorian Ombudsman)
- www.goodgovernanceguide.org.au
- Ensuring Unbiased Democratic Council Decision Making 2013 – (Victorian State Government)
- Councillor Codes of Conduct and Support and Expenses Policies – Brimbank City Council, Maribyrnong City Council, City of Melbourne, Knox City Council, Manningham City Council.

Amendment of Major Policy

This Major Policy can only be made, amended, modified or revoked, in accordance with the requirements of the Governance (Major Policy Consultation) Local Law No. 3.

Rev	Reviewed Date	Reason for Amendment	Next Review Date
C	April 2016	Major Policy <i>Local Government Act 1989</i> Amendment	February 2017

Date Adopted as Major Policy - 19 April 2016

Brimbank
Language link



Interpreter

9209 0140

Local call costs apply

*This policy is designated as a Major Policy,
and is subject to the provisions of the
Governance (Major Policy Consultation)
Local Law No.3.*

Brimbank City Council

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