

# **Councillor Code Of Conduct**

## COUNCIL POLICY

<b>Councillor Code of Conduct</b>	Document No:	CPL40.7
	Approval Date:	22 October 2013
	Approved By:	Council
	Review Date:	November 2016
Responsible Officer: <b>General Manager Corporate Services</b>	Expiry Date:	N/A
Authorising Officer:	Version No:	05
		<b>Chief Executive Officer</b>

### 1. PURPOSE

The Local Government Act 1989 requires that Council adopt a Code of Conduct and review the Code following a General Election.

### 2. SCOPE

This Code of Conduct has been developed in accordance with the Local Government Act 1989.

### 3. REFERENCES

- 3.1 Councillors' Expenses and Facilities Policy CPL45.2.
- 3.2 Pre Election Caretaker Policy CPL45.5.
- 3.3 Gifts and Hospitality Policy CPL40.5.
- 3.4 Procurement Policy CPL565.3.
- 3.5 Code of Conduct – Dispute Resolution Management Procedure MPR40.7.1.
- 3.6 Confidential Information in Reports Procedure MPR 40.6.1.
- 3.7 Local Government Act 1989.
- 3.8 Freedom of Information Act 1982.
- 3.9 Council Meeting Procedures Local Law 2009.
- 3.10 Charter of Human Rights and Responsibilities Act 2006.
- 3.11 "Conflict of Interest in Local Government – A Guide" – DPCD.
- 3.12 "Guide to Councillor Conduct Arrangement" – DPCD.
- 3.13 Register of Interests – Primary and Ordinary Return forms.
- 3.14 Assembly of Councillors Guidance Material.
- 3.15 Assembly of Councillors Record of Meeting form.

### 4. DEFINITIONS

- 4.1 "Act" means the Local Government Act 1989.
- 4.2 "Code" means the Council Policy – Councillor Code of Conduct.
- 4.3 "Councillor Conduct Panel" – a panel appointed pursuant to the Act.
- 4.4 "Independent Appointee" means a person suitably qualified in mediation or conciliation nominated by the President of the Law Institute of Victoria.
- 4.5 "Information" includes letters, reports, documents, facsimiles, attachments, tapes or electronic media and/or other forms of information including verbal.
- 4.6 "Policy" means any policy adopted by Council from time to time.
- 4.7 "Special Committee" means a committee established pursuant to section 86 of the Act.
- 4.8 "VCAT" – Victorian Civil and Administrative Tribunal.

### 5. COUNCIL POLICY

- 5.1 This Policy is in the form of the Code set out in this document.

### 6. QUALITY RECORDS

**Quality Records shall be retained for at least the period shown below.**

Record	Retention/Disposal Responsibility	Retention Period	Location

### 7. ATTACHMENTS

# COUNCILLOR CODE OF CONDUCT

## 1. Introduction

This Code of Conduct is a public declaration that Councillors of the City of Greater Geelong are committed to:

- 1.1. the principles of good governance;
- 1.2. discharging their responsibilities to the best of their skill and judgment; and
- 1.3. working together in the best interests of the people within the municipality.

As far as is practical this Code applies to members of Special Committees in the same manner as it applies to Councillors.

## 2. Councillor Conduct Principles

The Act defines “Councillor Conduct principles” as the principles set out in sections 76B and 76BA of the Act, which are standards of conduct that the community has a right to expect of all Councillors. These are the “Primary Principle” and seven “General Principles”. These principles must be included in every Councillor Code of Conduct and must be observed by every Councillor.

### 2.1. Primary principle

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

- 2.1.1. Act with integrity;
- 2.1.2. Impartially exercise his or her responsibilities in the interests of the local community; and
- 2.1.3. Not improperly seek to confer an advantage or disadvantage on any person.

### 2.2. General principles

In performing the role of a Councillor, a Councillor must also:

- 2.2.1. Avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- 2.2.2. Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- 2.2.3. Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council officers and other persons;
- 2.2.4. Exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- 2.2.5. Endeavour to ensure that public resources are used prudently and solely in the public interest;
- 2.2.6. Act lawfully and in accordance with the trust placed in him or her as an elected representative; and
- 2.2.7. 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.

### **3. Values and Behaviours**

- 3.1. Councillors aim to foster a culture that embraces a consistent set of behaviours that reflect what they value and believe in, and which also reflects what is necessary to deliver effective and efficient outcomes for the Community.

Council's values - Integrity, Responsibility, Innovation and Respect.

### **4. Roles and Responsibilities**

Councillors are able to exercise authority as a member of Council after they are formally sworn in and when they meet formally as Council. All decisions are made at Council meetings or through delegations that are formally made by Council. As a group, Councillors determine and monitor Council policy, direct and control Council's affairs and allocate resources.

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

#### **4.1. The Mayor**

The Mayor is directly elected to represent the municipal district. In general terms the principle areas of responsibility of the Mayor are:

- 4.1.1. to provide leadership and represent, support and promote the businesses and people of the municipality;
- 4.1.2. to facilitate the setting of the strategic direction and goals for the municipality;
- 4.1.3. to establish and maintain inter-governmental relationships at Regional, State and Federal levels and private sector organisations;
- 4.1.4. to act as the key spokesperson for Council;
- 4.1.5. to generate community cohesion and inclusiveness and advocate on behalf of community programs, needs and wellbeing;
- 4.1.6. to promote high standards of democratic and internal governance;
- 4.1.7. to preside efficiently, firmly and fairly over Council meetings, and
- 4.1.8. to represent Council at key ceremonial and social occasions.

#### **4.2. The Deputy Mayor**

The role of the Deputy Mayor is to represent the Mayor in all capacities in the event of the Mayor's absence. In practice, the Deputy Mayor, being elected by all Councillors, provides a critical role in supporting the Mayor's leadership of Council. Given the demands and complexity of the role of the Mayor, the Deputy Mayor, with the agreement of the Mayor, will provide support in areas such as:

- 4.2.1. assistance with communication between Councillors and between Councillors and the Mayor;
- 4.2.2. providing leadership support to Councillors to ensure adherence with Council values and behaviours;
- 4.2.3. taking the lead on strategic Council initiatives on behalf of the Mayor;
- 4.2.4. liaising with Council's administration on behalf of Councillors to ensure organisation support meets their role requirement; and

- 4.2.5. advising the Mayor on a broad range of Council and Councillor matters.

#### 4.3. Portfolios

Given the size and complexity of the municipality, Council may decide to assign portfolio responsibility to individual Councillors. Portfolio Councillors will regularly meet with the appropriate General Manager (and senior management as deemed appropriate) to be informed on strategic matters relevant to their Portfolio.

Councillor Portfolio appointments may be aligned to the assignment of Councillors to Committees.

The Portfolio role includes:

- 4.3.1. Informing the Mayor and Council on matters relating to their particular portfolio.
- 4.3.2. Being informed of policy development positions to put to the various decision-making bodies and any policy reviews.
- 4.3.3. Assisting other elected representatives to develop the fullest possible understanding of matters being considered by Council and enable the Portfolio Councillor to lead discussions on relevant items.
- 4.3.4. Facilitating the briefing of other Councillors in specialist areas within the portfolio.

#### 4.4. Councillors

Maintaining good working relationships between Councillors is integral to achieving the best outcomes for the community.

Councillors will:

- 4.4.1. strive to achieve the best outcomes for the City by working with colleagues and staff in an atmosphere of mutual respect;
- 4.4.2. be honest and open with other Councillors;
- 4.4.3. recognise and respect the strengths and weaknesses of fellow Councillors, and where possible, offer encouragement and support;
- 4.4.4. ensure punctual attendance at meetings;
- 4.4.5. debate contentious issues without resorting to personal acrimony or insult;
- 4.4.6. refrain from personal attacks on other Councillors and focus on the issue at hand; and
- 4.4.7. participate in mediation in good faith, as determined by the mediator, where Council's internal dispute resolution process results in mediation conducted by an Independent Appointee conciliator.

#### 4.5. Chief Executive Officer and Administration

The administration is accountable to Council through the Chief Executive Officer, who is responsible for the management and administration of the organisation.

Councillors will endeavour to ensure interactions with members of Council staff do not, and are not perceived to, direct or influence members of Council staff in the exercise of their duties, or in their professional advice to Council.

Decisions which reject or modify officer recommendations must only be made for relevant and proper reasons at a formal Council or Committee meeting.

The relationship between Councillors and staff must be one of co-operation and support with a clear understanding of each other's roles and responsibilities. Councillors will:

- 4.5.1. act respectfully towards staff dealing in a professional, courteous, fair, equitable and honest manner and avoiding intimidating behaviour;
- 4.5.2. commit to working co-operatively with staff to achieve the Council's goals;
- 4.5.3. initially refer their requests for service through the relevant General Manager or Department Manager, with the exclusion of direct support areas of the Mayor and Councillors office and Communications unit;
- 4.5.4. develop mature and constructive working relationships based on mutual trust, respect and a recognition of common goals;
- 4.5.5. understand and respect the distinction in roles of Councillors and staff, acknowledging that the Chief Executive Officer is responsible for the operations of Council and management of staff. Councillors will not involve themselves, directly or indirectly, in any personnel matter relating to a Council officer;
- 4.5.6. acknowledge that Councillors must not direct or instruct members of staff in the performance of their duties;
- 4.5.7. acknowledge that access to Staff in the Office of the Mayor & Councillors shall be available in accordance with approved protocols;
- 4.5.8. refrain from using the Councillor position to improperly influence members of staff in their duties or functions, or to seek preferential treatment or gain an advantage for themselves or others;
- 4.5.9. advise the Chief Executive Officer in a timely fashion of any concerns that a Council officer has acted contrary to a formal Council policy or decision. Any discussions pertaining to the performance of a Council officer must be held privately with the Chief Executive Officer or appropriate General Manager in a constructive manner; and
- 4.5.10. refrain from publicly criticising staff in a way that casts aspersions on their professional competence or credibility.

#### 4.6. The Community

Councillors are elected to govern the municipality as Council. On behalf of the community, Councillors are committed to representing constituents and the broader community working together to achieve outcomes that are in the best interests of the municipality.

Consultation, representation, equity, openness and accountability are the key features of the relationships between Council and the Community. Councillors will:

- 4.6.1. respectfully deal with members of the community in a courteous, fair, equitable and honest manner;
- 4.6.2. strive to understand and respect different points of view within the community;
- 4.6.3. be available to listen and respond to community concerns, but will avoid promising things which cannot or may not be delivered;
- 4.6.4. make decisions in the best interest of the community after considering all relevant interests and points of view;

- 4.6.5. be cognisant of the principles of procedural fairness prior to making statements on issues where public submissions have been invited;
- 4.6.6. encourage partnerships with the community so that mutual strengths can be utilised to achieve common goals; and
- 4.6.7. encourage understanding and harmony and discourage divisiveness among citizens of the City of Greater Geelong.

## 5. Dispute Resolution

At times there will be disputes or grievances between Councillors arising from alleged breaches of the Code. These disputes may require resolution outside the Council Chamber.

The Councillor Conduct arrangements in the Act provide for three levels of dispute resolution. Council's internal dispute resolution processes, Councillor Conduct Panels, and VCAT.

A Council's internal dispute resolution process is the first formal step to be taken when there is a dispute between Councillors that has the capacity to undermine the effective operation of the Council.

Before commencing any formal dispute resolution process, such as referral to a Councillor Conduct Panel or through the VCAT, the Councillors who are parties to any disagreement will endeavour to resolve their differences informally in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community. Councillors may seek assistance of any third party in resolving their differences.

In the event that differences are unable to be resolved and the situation is unduly affecting the operation of Council, the following process will be applied:

- 5.1. A written report (complaint) will be furnished by a Councillor to the Mayor detailing an alleged breach of the Code, specifying the relevant provisions of the Code of Conduct.
- 5.2. Within 5 working days of receipt of the complaint, the Mayor will:
  - 5.2.1. provide written acknowledgment of receipt of the complaint to the Complainant;
  - 5.2.2. provide a copy of the complaint to the Councillor concerned; and
  - 5.2.3. attempt to facilitate a resolution.
- 5.3. The Mayor may call upon the Chief Executive Officer for advice and guidance at this point in the process. The Mayor may appoint an independent expert to express an opinion in relation to the dispute.
- 5.4. If the matter is not able to be satisfactorily resolved, the Mayor shall appoint an Independent Appointee conciliator, being a person suitably qualified in mediation or conciliation nominated by the President of the Law Institute of Victoria.
- 5.5. If an Independent Appointee is appointed, all Councillors who are a party to the dispute shall cooperate in the dispute resolution process and provide reasonable assistance to the Independent Appointee, as requested.
- 5.6. Following mediation, a report is to be prepared for the Mayor by the Independent Appointee which sets out the outcome of the mediation and may include any general recommendations which may be of assistance to Council. This report is to be provided within 21 days of appointment of the Independent Appointee, or such other reasonable period of time as agreed by the Mayor. The report will be subsequently presented during a closed section of the next available Council meeting.

- 5.7. Following mediation, a separate open report is to be provided by the Independent Appointee, in writing, to Council and all participants in the mediation, which includes a determination, in their opinion, as to whether the Councillors who are party to the disagreement participated in the mediation in good faith in accordance with clause 4.4.7 of this Code.
- 5.8. In the event that the Mayor or Deputy Mayor is either a complainant or a respondent, another Councillor determined by Council shall assume the role of the Mayor for the purposes of this part of the Code.
- 5.9. In the event that the above internal processes fail to reach a resolution, the matter may be formally referred to either the Councillor Conduct Panel in the first instance, or to VCAT. The process for formal resolution is outlined in Part 4 of the Act.
- 5.10. Throughout the dispute resolution process, all parties must refrain from speaking to the media and they must not disclose the nature of the dispute to any third parties.

## **6. Sanctions or Referral to Councillor Conduct Panel**

- 6.1. Sanctions may be applied if this Code or any relevant law is breached, depending on the nature of the breach. Sanctions may be imposed by resolution of Council.
- 6.2. Council, having considered the report and any recommendation of the Independent Appointee may resolve that a Councillor has failed to comply with this Code, and may, by resolution:
  - 6.2.1. Require the Councillor to apologise to the person concerned;
  - 6.2.2. Request a formal public apology;
  - 6.2.3. Pass a sanction motion at a Council Meeting;
  - 6.2.4. Make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or Annual Report);
  - 6.2.5. Refer the matter to an appropriate investigative body if the matter is serious;
  - 6.2.6. Withdraw or re-allocate any Portfolio responsibilities or Chairperson role held by the Councillor; and
  - 6.2.7. Withdraw or re-allocate any appointment of the Councillor to a Committee.
- 6.3. Additionally, a matter may be referred to a Councillor Conduct Panel to make a finding of misconduct.