

City of Greater Dandenong

Code of Conduct - Councillors


13th Edition

A guide to conduct City of Greater Dandenong Councillors

This Code, which incorporates the statutory requirements specified for a Code of Conduct under section 76C of the *Local Government Act 1989*, was adopted by resolution of the Greater Dandenong City Council on 13 February 2017.

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Introduction

The City of Greater Dandenong is constituted under the *Local Government Act 1989* (The Act) and the Council is accountable to the residents of this city and the Victorian Government through Local Government Victoria. The Council can also be accountable to the Independent Broad-Based Anti-Corruption Commission and the Victorian Ombudsman.

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

The community expects local government to provide fair, accurate and unbiased advice, to act promptly and effectively and to manage assets efficiently. To assist in meeting these expectations, section 76C of the Act requires councils to adopt a code of conduct to be observed by Councillors.

As a result, the City of Greater Dandenong has developed two codes of conduct – one for Councillors and one for staff and representatives of Council. The two codes clearly distinguish the expectations of Councillors as elected representatives from those of staff who are employed by the Council. The principles are the same, but the wording differs to reflect the distinctions that exist and the requirements of the Act.

The codes clearly outline the responsibilities and behaviours that are to be observed in keeping good faith and the trust of fellow Councillors, staff and the public. It is important that all Councillors understand and comply with the code outlined in this document.

1. SCOPE, PURPOSE AND COMMITMENT

This code of conduct applies to all Councillors of the City of Greater Dandenong and relates to the performing of Council functions and purposes and all the various forms of decision-making processes. It supports all the requirements of the Act and under the Act, it must be reviewed within four months after a Council general election.

This code:

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

In the City of Greater Dandenong, the elected Councillors are committed to working together in the best interests of the people within the Greater Dandenong municipality, to discharge their responsibilities to the best of their skill and judgement and to apply the highest standards of behaviour to their roles.

As part of this commitment and, as required under section 76C(6A) of the Act, Councillors must make a declaration stating they will abide by this code of conduct within one month of any amendments being made and when they are sworn into their roles at the beginning of a Councillor term. All Councillors will adhere to the conduct principles, values and behaviours outlined in this code of conduct. A commitment to working together constructively is consistent with Greater Dandenong's core values and will ensure that public confidence in Council is maintained.

2. KEY ROLES AND RESPONSIBILITIES

Role of Council

An understanding and agreement of the different roles within Council helps achieve good governance. The key roles are outlined below.

The primary role of the Council is to provide leadership for the good governance of Greater Dandenong. It includes:

- a) acting as a representative government by taking into account the diverse needs of the local community in decision-making;
- b) providing leadership by establishing strategic objectives and monitoring their achievement;
- c) maintaining the viability of the council by ensuring that resources are managed in a responsible and accountable manner;
- d) advocating the interests of the local community to other communities and governments;
- e) fostering community cohesion and encouraging active participation in civic life; and
- f) making all decisions impartially and in the best interests of the whole community.

Council has a statutory responsibility to represent all people that live, participate in and invest within the municipality.

Role of a Councillor

Greater Dandenong City Council comprises 11 Councillors who are democratically elected by the community in accordance with the Act. Section 65 of the Act outlines that the role of a Councillor is to:

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

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

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

Specifically, section 65(3) of the Act specifies that 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.

Councillors also appoint the Chief Executive Officer of the organisation, determine Council policies and set the strategic direction of the organisation.

In conjunction with the Executive Management Team, Councillors may engage (which includes but is not limited to communication and discussion via electronic devices or telephone) with officers on operational matters of the organisation or its services however, in adherence with the *Local Government Act 1989*, Councillors will not misuse their position to direct staff.

Role of the Mayor

The Mayor is the elected leader of the Council and is the key formal representative of Council. Section 73AA of the Act outlines the key functions of the Mayor as including:

- a) the provision of guidance to Councillors about what is expected of a Councillor including that 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;
- b) acting as the principal spokesperson for the Council;
- c) supporting good working relationships between Councillors; and
- d) carrying out the civic and ceremonial duties of the office of Mayor.

The Mayor, or Councillor acting in the position, also has a key role to facilitate good relationships between Councillors and the Chief Executive Officer and Executive Management Team. In addition to their role as a councillor, the main roles and responsibilities of the Mayor include the following:

- e) being a community leader;
- f) establishing partnerships and networks and actively promoting Council's interests;
- g) creating and maintaining political stability within the Council;
- h) representing Council at functions and political forums;
- i) leading and coordinating Councillors;
- j) chairing Council Meetings and ensuring and encouraging participation of Councillors in decision making processes; and
- k) having a close working relationship with the Chief Executive Officer, thereby creating and ensuring positive relationships with the organisation, leading to good planning, identification and resolution of issues;
- l) fostering positive relationships with various stakeholders, including government agencies and peak bodies;
- m) promoting a positive image of Council and a positive organisational culture.

Role of the Chief Executive Officer

The Chief Executive Officer (CEO) has a number of statutory responsibilities and is accountable to the elected Council for delivering Council's strategies and services. As the head of the organisation, the CEO's role is to provide professional, relevant and timely information and support to Council.

Section 94A of the *Local Government Act 1989* identifies the CEO as being responsible for a number of activities including:

- a) establishing and maintaining an appropriate organisational structure;
- b) ensuring the decisions of the Council are implemented without delay;
- c) the day-to-day management of the Council's operations in accordance with Council's Plan;
- d) developing, adopting and disseminating a code of conduct for Council staff;
- e) providing timely advice to Council;
- f) ensuring that the Council received timely and reliable advice about its legal obligations under the Act and any other Act;
- g) supporting the Mayor in the performance of the Mayor's role as Mayor; and
- h) carrying out 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.

The Chief Executive Officer is responsible for appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff. The Chief Executive Officer is also responsible for managing interactions between Council staff and Councillors including ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.



Councillor Relationships with Council Staff

As detailed in Section 94A of the Local Government Act 1989, the CEO is responsible for the staff of Council which includes appointing, directing and dismissing staff. Councillors have no right to individually direct staff to carry out particular functions. Councillors will advise the CEO if they have concerns that staff have taken action contrary to a formal policy or decision of Council. Councillors will not involve themselves in any personnel matter relating to staff, except for the Chief Executive Officer. The information provided to one Councillor should be equally available to all Councillors and no treatment that is unequal should be sought from any staff member. Councillors must respect the role of Council officers and employees and treat them in a way that engenders mutual respect at all times. Councillors will act with courtesy towards Council staff and avoid intimidating behaviour.

3. USE OF COUNCIL RESOURCES

At Greater Dandenong, Councillors recognise the need to exercise appropriate prudence in the use of Council resources and ensure they are used solely in the public interest. This includes:

- a) maintaining appropriate care and security for Council property, facilities and resources provided to assist them in performing their role; and adhering to any guidelines or policies that have been established for the use of Councillor resources and facilities (see Section 7);
- b) not using public funds or resources in a manner that is improper or unauthorised;
- c) not using Council resources, including staff, equipment and/or intellectual property for electoral or other purposes; and
- d) ensuring that all expense claims are timely and accurate, are supported by the relevant documentation and strictly relate to Council business.

4. CONDUCT OF COUNCILLORS

A Councillor Code of Conduct must include conduct principles as specified in sections 76B and & 76BA of The Act. Each Councillor is aware of their responsibility to comply with those conduct principles including the following primary principles and seven general principles.

Primary Principle of Councillor Conduct

It is a primary principle of Councillor Conduct that, in performing the role of a Councillor, a Councillor must comply with section 76B of the Act which states that a Councillor must:

- (a) act with integrity; and
- (b) impartially exercise his or her responsibilities in the interests of the local community; and
- (c) not improperly seek to confer an advantage or disadvantage on any person.

General Councillor Conduct Principles

In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must comply with section 76BA of the Act which states that a Councillor must:

- (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- (b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
- (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- (f) act lawfully and in accordance with the trust placed in him or her as an elected representative; and
- (g) 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.

Promoting Wellbeing in the Workplace

In line with Occupational Health and Safety, Human Rights and Equal Opportunity legislation, Council is committed to protecting the health, safety and well-being of all Councillors and staff and will provide, as far as practicable, a safe Council working environment that is free from bullying and violent behaviour (see Section 7).

Councillors are expected to promote an environment of wellbeing in the workplace and ensure all people in the workplace, which includes Councillors, staff, visitors and customers, are treated with respect and report any acts or suspected acts of bullying and violence to the Chief Executive Officer. Councillors themselves will treat all people with courtesy and respect recognising there are legitimate differences in opinions, race, culture, religion, language, gender and abilities.

In addition to the above, a Meeting Etiquette Guide may be provided at Council Meetings and Councillor Briefing Sessions and other meetings to guide behaviour that is consistent with this Code of Conduct and general Councillor conduct principles required under the Act.

5. VALUES AND BEHAVIOURS

The City of Greater Dandenong strives to be an organisation of exceptional character. As community and civic leaders, Councillors commit to lead by example and promote the highest standard in the way that Council business is conducted. The organisation has its own corporate values and, as an extension to those, has developed a set of principles that define who we are, how we interact with each other and the community and how each of us, both staff and Councillors, aim to operate in the workplace regardless of the role we hold.

These principles are encapsulated by the acronym REACH which stands for Respectful, Engaged, Accountable, Creative and Honest and Councillors agree that they will collectively aspire to the characters and behaviours represented below:

R	<p>RESPECT AND RESPONSIBILITY</p> <p>We respect and care about our community, each other and ourselves. We act with integrity at all times and in all matters. We take time to listen, to seek and to understand the other point of view. We strive to understand and respect the diversity of our community. We understand our role in the community and respect the responsibility that comes with it. We respect and work towards harmonious working relationships with others. We support one another and staff if they are treated unfairly or without respect.</p>
E	<p>ENGAGED</p> <p>We listen to our community and respond. We work together with our community and each other, to achieve the best outcomes. We have the confidence to challenge the status quo, to reach for better outcomes. We are action-oriented in identifying and responding to new challenges. We are responsive to the needs of our community. We encourage active community participation in civic life. We welcome the opinions of the community and respect their right to be heard.</p>
A	<p>ACCOUNTABLE</p> <p>We are proud of our city, our community and our achievements. We spend our time and effort on solutions rather than looking for someone to blame. We take responsibility for our decisions and actions and we act and work in an open and transparent manner. We abide by all the governing Council policies and the local government sector legislation. We ensure the best use of Council resources.</p>
C	<p>CREATIVE/COURAGE</p> <p>We care about getting the best outcomes. We constantly ask, "What's the future and what's possible?" We have the courage to try new ideas. We strive for excellence in everything we do. We have the courage to take on big projects and to look at the big picture. We have the courage to make sound judgements based on evidence and research to make good decisions at the right time. We have the perseverance and commitment to accomplish goals in the best interests of the city.</p>
H	<p>HONESTY</p> <p>We tell the truth, even when we know people may not want to hear it. We form our opinions and give advice from sound, evidenced-based research. We act with humility and apply the highest standards of ethical behaviour to everything we do. We accept responsibility for mistakes and see them as opportunities for continuous improvement and growth.</p>

6. COUNCILLOR CONDUCT AND LEGISLATIVE (CORPORATE) OBLIGATIONS

There are specific types of conduct that are expressly prohibited by the Act and other legislation. Councillors acknowledge that, in many cases, a breach of a specific provision of the Act or other legislation may be subject to prosecution in court.

Misuse of Position

Councillors acknowledge that they must comply with section 76D of the Act which states that a person who is, or has been, a Councillor must not misuse his or her position:

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

Circumstances involving the misuse of a position by a person who is, or has been, a Councillor are described in section 76D of the Act and include making improper use of information acquired as a result of their position, disclosing confidential information within the meaning of section 77(2), exercising or performing a power, duty of function that they are not authorised to do or using public funds or resources in a manner that is improper or unauthorised.

Improper Direction and Improper Influence

Councillors acknowledge that they must comply with section 76E of the Act which states that a Councillor must not improperly direct or improperly influence, or seek to improperly direct or improperly influence, a member of Council staff in the exercise of any power or in the performance of any duty or function by the staff member.

Improper direction or influence can occur if a Councillor seeks to direct a staff member in the exercise of a delegated power, duty or function as an officer holding a position under any Act, as an authorised officer under any Act or in relation to advice provided to Council or a special committee. Simple examples are as follows:


- a Councillor cannot direct a planning officer to issue a delegated planning decision in relation to a planning permit application;
- a Councillor cannot direct a parking enforcement officer to withdraw an infringement notice because the Councillor deems it unnecessary;
- a Councillor cannot direct an officer to change the advice the officer provides in a Council report. However a Councillor could request that more information be provided or that the information provided be more specific.

Handling and Use of Confidential and Personal Information


Councillors acknowledge that they must not:

- (a) use information gained by virtue of being a councillor for any purpose than to exercise their role as a Councillor;
- (b) release or use information deemed "confidential information" in accordance with section 77 of the Act for their own or any other person's advantage;
- (c) discuss, distribute or allow to be communicated to another party any "confidential" information, where marked as such or which by its content could be reasonably considered to be of a confidential nature; and
- (d) use information to cause harm or damage to any person, body or the Council.

Councillors who handle personal information, especially information falling within the scope of the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*, must ensure they fully understand the requirements regarding the handling and use of personal information set out under those Acts, associated regulations and Council policies and procedures (see Section 7). "Personal information" includes any information about an identifiable individual.



Councillors must understand that they are subject to Information Privacy Principles both as members of Council and as individual public officials.



Conflict of Interest Procedures

Councillors are committed to making all decisions impartially and in the best interests of the public. Council recognises the importance of fully observing the requirements of the Act relating to the disclosure of interests and conflicts of interest. Councillors will comply with all sections (77A to 80A) of The Act in relation to conflicts of interest and upon identifying an interest, Councillors will follow the procedures as set out in the Act.

Gifts and Bribery

Councillors acknowledge that they must not seek or accept gifts either in their roles as Councillors or where it could be perceived to influence them, except in accordance with the requirements of, and adhering to, any guidelines or policies that have been established in relation to gifts and hospitality (see Section 7).

A record of gifts and other considerations is required for the reporting of fringe benefits tax and is kept by the Governance Business Unit.

Fraud and Corruption

Councillors acknowledge that the Greater Dandenong City Council is committed to preventing fraud in the council workplace and functions under the guidelines or policies that have been established in relation to fraud prevention and control and protected disclosures (see Section 7).

7. ADDITIONAL CONDUCT PROVISIONS

Further to the above obligations and statutory requirements, Councillors will obey the law, relevant regulations, and Council policies and procedures including the following:

- Appropriate Workplace Behaviours Policy (CGD)
- Catering and Civic Support Policy (CGD)
- Child Safe Code of Conduct (CGD)
- Child Safe Policy (CGD)
- Councillor Support, Reimbursement and Accountability Policy (CGD)
- Council Meeting Structure Policy (CGD)
- Disclosures under the Protected Disclosures Act 2012 Policy (CGD)
- *Equal Opportunity Act 1995*
- Election Period (Caretaker) Policy (CGD)
- Fraud Prevention and Control Policy (CGD)
- Gifts, Benefits and Hospitality Policy (CGD)
- *Victorian Charter of Human Rights and Responsibilities 2006*
- *Occupational Health and Safety Act 2004*
- Occupational Health and Safety Policy (CGD)
- *Health Records Act 2001*
- Information Privacy and Health Records Policy (CGD)
- Information Security Policy (CGD)
- *Local Government Act 1989*
- Mayoral Representation Policy (CGD)
- Media Policy (CGD)
- Meeting Procedure Local Law (CGD)
- Mobile Devices Policy (CGD)
- *Privacy and Data Protection Act 2014*
- *Protected Disclosures Act 2012*
- Social Media Policy (CGD)
- Workplace Behavioural Concerns Resolution Policy and Guidelines
- Workplace Equal Opportunity Policy (CGD)

8. CONFLICT/DISPUTE RESOLUTION PROCEDURES AND COMPLAINTS

This conflict/dispute resolution process is intended to be used in the event where Councillors have been unable to resolve a conflict or dispute amongst themselves or others or where the situation is unduly affecting the operation of the Council. It is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion, debate and voting in Council and Committee meetings.

Disputes Between Councillors

Councillors are mindful that having and expressing differing and sometimes opposing viewpoints is a normal function of the process of democratic local government. Sharing and expressing these different views leads to informed and well considered debate. All Councillors have the right to influence the decisions made by Council through this debate.

While all Councillors will endeavour to foster and encourage positive and productive interactions at all times, conflict and/or disputes may emerge when the differences between Councillors become personal or the behaviour of Councillors towards each other is of a nature that threatens the effective operation of Council's decision-making process. Before commencing any formal conflict/dispute resolution process, Councillors who are parties to any disagreement have an individual and collective responsibility to try every avenue possible to resolve such conflict or disputes in-house in a courteous and respectful manner to prevent them from further escalating.

A conflict or dispute may arise between two individual Councillors, between one Councillor and another or a group of Councillors or between two or more different groups of Councillors. The following conflict/dispute resolution procedure will apply regardless of the dynamics and numbers involved.

Greater Dandenong City Council's conflict resolution procedure is comprised of four steps as follows. They are:

1. Self-Resolution (Optional)
2. Internal Mediation (Optional)
3. External Mediation
4. Internal Resolution Procedure by Independent Arbitrator (Mandatory)

If Step 1 (self-resolution) is unsuccessful, then the process would escalate to Step 2 (internal mediation). If Step 2 is unsuccessful, then the process would escalate to Step 3 (external mediation) and so on.

1. Self Resolution (Optional)

Councillors should take personal responsibility and endeavour to resolve their differences in an *"informal"* but courteous and respectful manner, recognising that they have been elected to represent the best interests of the community. Either party may ask the Mayor, as the leader of the Council team, to *"informally"* facilitate any discussions.

2. Internal Mediation (Optional)

If the *"informal"* process between Councillors is unsuccessful or not implemented, a formal request for internal mediation must be made to the Mayor who will become involved as soon as practically possible. As leader of the Councillor team, the Mayor will facilitate *"formal"* discussions between the parties in dispute. The Mayor will ensure the CEO is advised of the situation.

This request must be made in writing, indicating the type of procedure required (remedy of breach), the reason for the dispute, the names of those involved, provisions of the code that may have been breached and any evidence to support the allegation and the name of the Councillor representative if the request is being made by a group of Councillors.

The Mayor will convene a meeting at the earliest available opportunity and will provide guidance during that meeting as to what is expected of a Councillor under the Act in relation to roles, responsibilities and conduct. The Mayor will document any outcomes and will provide copies to all parties.

In the event where one party does not comply with the agreed outcomes, the other party has the option for further action as described under the dispute resolution procedure in this code of conduct (either steps 3 or 4 as outlined below).

In the event that a conflict or dispute involves the Mayor, the immediate past Mayor shall perform the role of the Mayor in facilitating discussion between the parties in dispute and liaise with the CEO.

3. External Mediation

Prior to any dispute proceeding to Step 4 of this dispute resolution process, the relevant parties to any dispute must give consideration to referring the dispute to external mediation.

The applicant must provide, in writing to Council's Principal Conduct Officer (PCO), the reason for the dispute, the names of those involved, provisions of the code that may have been breached and any evidence to support the allegation and the name of the Councillor representative if the request is being made by a group of Councillors. The applicant must also notify the other party of the request and provide them with a copy of the application at the same time the application is made to the PCO. The applicant must also note whether they are willing to participate in external mediation and, if not, the reasons for not doing so.

Where external mediation is sought, the PCO will ascertain whether or not the other party will attend external mediation and if they decline they must provide reasons for doing so to the PCO. Declining to attend external mediation does not constitute a breach of this code of conduct.

If the other party agrees to participate in external mediation, the PCO will advise the applicant, the Mayor and the Chief Executive Officer accordingly. The Chief Executive Officer will engage the services of an external and independent mediator to conduct the mediation at the earliest available opportunity. (Mediators and conciliators can be selected from a listed panel of practitioners maintained by the Governance Business Unit as provided under Council's Councillor Support, Reimbursement and Accountability Policy.)

The mediator will document any agreement or outcomes reached at the meeting and copies will be provided to both parties. In the event of one party not agreeing to mediation or one party not complying with the agreed outcome, or if mediation does not achieve a satisfactory outcome, either party has the option of taking any further action described in this code of conduct (step 4 as outlined below).

If the dispute remains unresolved, the mediator or conciliator will be required to provide a written report for Councillors and the parties involved in the dispute as to why the process did not result in a resolution.

4. Internal Resolution Procedure by Independent Arbiter (Mandatory)

If a conflict or dispute arises from an alleged contravention of this code of conduct and it has not been resolved through any of the previous processes, a Councillor or group of Councillors may make application for internal resolution by an independent arbiter. Such an application must allege that a named Councillor has (or named Councillors have) contravened this code of conduct. The application must be made to Council's PCO.

This application must be made in writing, specify the name of the Councillor alleged to have contravened the code, specify the provisions of the code that may have been contravened and any evidence to support the allegation and the name of the Councillor representative if the request is being made by a group of Councillors.

An application for an internal resolution procedure cannot be made during an Election Period and any procedure in progress will be suspended for the duration of an Election Period.

On receiving an application, the PCO will:

- advise the Mayor and CEO of the application without undue delay;
- provide a copy of the application to the Councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;
- identify an arbiter to hear the application;
- obtain from the arbiter written advice that they have no conflict of interest in relation to the Councillors involved;
- notify the parties of the name of the proposed arbiter and provide them with the opportunity (two working days) to object to the person proposed to be the arbiter;
- consider the grounds of any objection and appoint the proposed arbiter or identify another arbiter;
- provide a copy of the application to the arbiter as soon as practicable after the opportunity for the parties to object to an arbiter has expired;
- after consultation with the arbiter, advise the applicant and the respondent of the time and place for the hearing; and
- attend the hearing(s) and assist the arbiter in the administration of the process

The Principal Conduct Officer will request the Municipal Association of Victoria to appoint an arbiter who is suitably independent and able to carry out the role of arbiter fairly.

The role of the arbiter is to:

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

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

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

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

An arbiter:

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

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

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

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

A Councillor who does not participate in the internal resolution procedure may be guilty of misconduct.

Councillor Misconduct

Councillor misconduct is defined in section 3 of the Act (see misconduct, serious misconduct and gross misconduct). Allegations of misconduct are heard on application by a Councillor Conduct Panel as outlined in section 81B of the Act and Councillor Conduct Panels are conferred under Division 1D of the Act.

Applications for a Councillor Conduct Panel to make a finding of *misconduct* against a Councillor may be made by the Council (following resolution of the Council to make an application to a Councillor Conduct Panel in respect of a Councillor's conduct) or a Councillor or group of Councillors.

Applications for a Councillor Conduct Panel to make a finding of *serious misconduct* against a Councillor may be made by the Council (following resolution of the Council to make an application to a Councillor Conduct Panel in respect of a Councillor's conduct), a Councillor or group of Councillors or the Chief Municipal Inspector.

Applications for a Councillor Conduct Panel must be made directly to the state-appointed Principal Councillor Conduct Registrar.

Depending on the allegation and outcome, a Councillor Conduct Panel may:

- discipline a Councillor by reprimand, direct an apology or require the Councillor to take up to two months leave of absence;
- direct that the Councillor is ineligible to take up the position of Mayor for a period specified by the Panel;
- require remedial action, including mediation, training or counselling;
- suspend the Councillor from office for a period not exceeding six months; or

- refer a matter to VCAT if the Panel considers gross misconduct has been conducted by a Councillor.

Disputes Between Members of the Public and Councillors

Where a complaint is received from the public in respect of a Councillor, the matter will be referred to the Mayor for consideration. Where the Mayor determines a breach of the Councillor Code of Conduct has occurred, the Mayor will progress the matter in accordance with this dispute resolution process. Where the complaint involves the Mayor, the immediate past Mayor will progress the matter in accordance with this dispute resolution process.

Disputes Between Councillors and Staff

The CEO has sole responsibility for the management of Council staff. In the event of a dispute between a Councillor and a member of Council staff, it must be brought to the immediate attention of the Chief Executive Officer. The CEO will investigate the dispute and progress the matter in accordance with the following process:

1. Informal Resolution

The Councillor and CEO will attempt to resolve the matter in an *"informal"* but courteous and respectful manner regardless of whether the dispute was raised by a Councillor or staff member.

2. Formal Complaint

If the *"informal"* process is unsuccessful and a Councillor wishes to lodge a formal complaint against a member of Council staff, this complaint must be lodged with the CEO. It will remain at the discretion of the CEO as to what, if any, action is undertaken, however, the CEO will report back to the Councillor who made the complaint, once that complaint has been investigated.

In the event that the complaint involves the CEO and informal resolution has been unsuccessful, the complaint must be lodged with the Mayor. It will remain at the discretion of the Mayor as to what, if any, action is undertaken and if the matter is not resolved to the satisfaction of all parties, then it must be raised with all Councillors within the CEO's ongoing quarterly performance management review process and referred to the CEO Performance Review Committee.

If the *"informal"* process is unsuccessful and a staff member wishes to lodge a formal complaint against a Councillor, this complaint must be lodged with the CEO who will, if deemed appropriate, discuss the matter with the Mayor. Where the Mayor deems that a breach of this Code of Conduct has occurred, the Mayor will progress the matter in accordance with the dispute resolution process outlined in the above section titled *Disputes Between Councillors*.

In the event that the complaint involves the Mayor, the CEO will discuss the matter with the immediate past Mayor and all Councillors.

3. Further Actions

If a Councillor is found to be in breach of any relevant legislation and under that legislation the CEO is required to formally investigate a complaint from a staff member, then the CEO will not do so until the above steps have been undertaken in an attempt at resolution and the issue has been discussed with all Councillors.

Support for Councillors

Support mechanisms for Councillors involved in conflicts and disputes are in place and are prescribed under the Councillor Support, Reimbursement and Accountability Policy. (A listed panel of practitioners who can provide mentor support to Councillors will be maintained by the Governance Business Unit as provided under Council's Councillor Support, Reimbursement and Accountability Policy.)



9. ELECTIONS

Council Elections

Councillors are committed to fair and democratic Council elections and therefore adopts and endorses the practices and legislative requirements set out in Council's Election Period (Caretaker) Policy (see Section 7) and the *Local Government Act 1989* respectively.

State and Federal Elections

Councillors endorse and commit to follow the existing Municipal Association of Victoria's Policy position regarding *Candidature of Councillors in State or Federal Elections* (as attached).




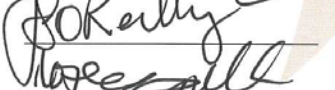
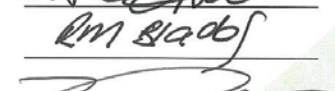
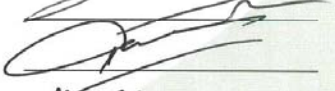
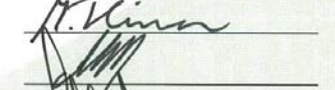

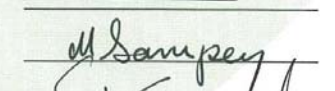

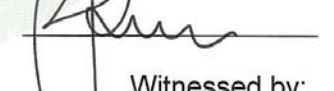
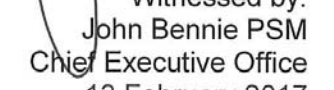
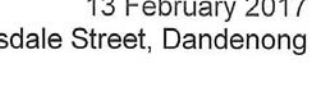

10. MONITORING AND REVIEW

Council will review the Code of Conduct within four (4) months of a general election as required under the *Local Government Act 1989*. Council may also choose to review the Code of Conduct at any other time within a four year Council term.

11. DECLARATION

City of Greater Dandenong
 Declaration made under section 76C(6A) of the
Local Government Act 1989

"We, the undersigned, declare and affirm that we will abide by the Councillor Code of Conduct as amended and adopted at the Special Council Meeting of 13 February 2017."

Councillor	Ward	Signature
Cr Youhorn Chea	Lightwood	
Cr Sean O'Reilly	Lightwood	
Cr Loi Truong	Lightwood	
Cr Roz Blades	Paperbark	
Cr Timothy Dark	Paperbark	
Cr Heang Tak	Paperbark	
Cr Matthew Kirwan	Red Gum	
Cr Angela Long	Red Gum	
Cr Jim Memeti	Red Gum	
Cr Zaynoun Melhem	Silverleaf	
Cr Maria Sampey	Silverleaf	
Cr Sophie Tan	Paperbark	 09/01/19

Witnessed by:
 John Bennie PSM
 Chief Executive Office
 13 February 2017
 225 Lonsdale Street, Dandenong



12. APPENDIX



Candidature of Councillors State or Federal Elections

The perception of the politicisation of local government resulting from councillors running for office in state or federal parliament remains a contentious issue in Victoria.

Councillors are elected to perform their duties in a lawful manner and must comply with relevant provisions of the *Local Government Act 1989 (the Act)* including principles of councillor conduct set out in section 76B of the Act.

These principles of conduct require councillors to act honestly and to exercise reasonable care and diligence in performing the role of a councillor. They also provide that it is an offence if a councillor makes improper use of his/her position or of information acquired because of his/her position to, *inter alia*, gain or attempt to gain, directly or indirectly, an advantage for him/herself or for any other person.

The *Commonwealth Electoral Amendment (Members of Local Government Bodies) Act 2003* provides that any state legislation that discriminates against a councillor on the ground that the councillor has been, or is to be, nominated or declared as a candidate for the House of Representatives or the Senate has no effect.

The commonwealth and state constitutions disqualify a person from holding office who is profiting from the crown or the state.

It may be prudent for a councillor/council to seek legal advice in relation to these issues.

The MAV recommends that councils, at a minimum, adopt the following Guidelines as part of their Councillor Code of Conduct developed under section 76C of the Act or to supplement that Code.

Guidelines

1. A councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate for a state or federal election (a Prospective Candidate), should provide written advice to the CEO, as soon as practicable, who should then advise all councillors.
2. A councillor who is a Prospective Candidate, should declare his/her intended candidacy at a meeting of the council as soon as practicable after notifying the CEO pursuant to Guideline 1.
3. A councillor who nominates as a candidate for a state or federal election (a Nominated Candidate), should apply for leave of absence from the council and this leave of absence should commence no later than the date of their nomination as a candidate with the relevant electoral commission for the election (Nomination Date) and conclude no earlier than the close of voting for the election. During this period, a councillor who is on a leave of absence should not attend meetings of the council or otherwise act as a councillor.

4. Any councillor / staff relationship protocol which the council has in place in respect of the caretaker period prior to a council election, should be observed by a Nominated Candidate and this should apply from their Nomination Date until the close of voting for the election.
5. A council, upon receiving an application for a leave of absence from a councillor who is a Nominated Candidate or who intends to become a Nominated Candidate, should approve that application.
6. A councillor who is a Prospective Candidate or a Nominated Candidate, should take care to differentiate between his/her role as a state or federal election candidate and role as a councillor when making public comment.
7. A councillor who is a Prospective Candidate or a Nominated Candidate, should not use council resources, including council equipment and facilities in relation to his/her candidacy.
8. A councillor who is a Prospective Candidate or a Nominated Candidate, should not use council activities, including committee meetings and council-related external activities in relation to his/her candidacy.

The distinction between Prospective Candidate and Nominated Candidate

This policy draws a distinction between Prospective Candidates and Nominated Candidates because, as with council elections, candidates for state and federal elections only become actual nominated candidates a few weeks prior to the relevant election date. Accordingly, this policy recommends different treatment for Prospective Candidates and Nominated Candidates on the basis that some requirements are recommended as appropriate for Nominated Candidates during a formal election period which are not considered to be necessary prior to the formal election period.