



South Gippsland
Shire Council
Come for the beauty, Stay for the lifestyle

SPECIAL MEETING OF COUNCIL MINUTES

**SPECIAL MEETING OF COUNCIL
WEDNESDAY 25 MAY 2016
COUNCIL CHAMBER, LEONGATHA
COMMENCED AT 12.30PM**

REVIEW AMENDMENTS AND APPROVE COUNCILLOR CODE OF CONDUCT 2016

PRESENT:

Mayor: Cr Robert Newton
Deputy Mayor: Cr Mohya Davies
Councillors: Nigel Hutchinson-Brooks, James Fawcett, Kieran Kennedy,
Lorraine Brunt, Andrew McEwen and Don Hill.

APOLOGY: Tim Tamlin, Chief Executive Officer
Councillor Jeanette Harding

OFFICERS:

Mr Bryan Sword	Acting Chief Executive Officer
Anthony Seabrook	Director Sustainability and Infrastructure Services
Jan Martin	Director Community and Corporate Services
Paul Stampton	Acting Director Development Services
June Ernst	Coordinator Corporate Planning and Council Business
Natasha Berry	Corporate and Council Business Officer
Jodi Cumming	Corporate and Council Business Officer
Rick Rutjens	Coordinator Media & Communications

MISSION

*To effectively plan and provide for the social, built, economic and
natural environments that ensure the future wellbeing of
South Gippsland Communities.*

SOUTH GIPPSLAND SHIRE COUNCIL

SPECIAL MEETING OF COUNCIL WEDNESDAY 25 MAY 2016 COUNCIL CHAMBER, LEONGATHA COMMENCED AT 12.30PM

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Tim Tamlin
Chief Executive Officer

SECTION A - PRELIMINARY MATTERS

A.1 WELCOME

Please ensure Mobile phones remain 'off' during the Council Meeting.

A.2 OPENING PRAYER

We pray to God to guide us so that the thoughts we have and the decisions made this day, are in the best interests of the people of the South Gippsland Shire.

Amen

A.3 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

The South Gippsland Shire Council respectfully acknowledges the Traditional Custodians of this Land, Elders past and present, their Spirits and Ancestors.

A.4 REQUESTS FOR LEAVE OF ABSENCE

Nil

A.5 APOLOGIES

Tim Tamlin, Chief Executive Officer
Councillor Jeanette Harding

A.6 DECLARATION OF CONFLICT OF INTEREST FOR COUNCILLORS

Any interest that a Councillor or staff member has deemed to be significant and has disclosed as either a direct or an indirect interest is now considered to be a conflict of interest. Conflict of interest legislation is in sections 77A, 77B, 78, 78A-D and 79 of the Local Government Act 1989. This legislation can be obtained by contacting the Council's Corporate Services Directorate (Governance Services) or by accessing the Victorian Legislation and Parliamentary Documents website at www.legislation.vic.gov.au. An interest may be by close association, financial, conflicting duties or receipt of gifts.

If a Councillor or staff member discloses any interest in an item discussed at any Council Meeting (whether they attend or not) they must:

- Complete a disclosure of interest form prior to the Meeting (forms are available from the Organisational Development Department – Governance).
- Advise the Chair of the interest immediately before the particular item is considered (if attending the Meeting).
- Leave the Council Chamber or Meeting room while the item is being discussed and during any vote taken (if attending the Meeting).

The Councillor or staff member will be advised to return to the Council Chamber or Meeting room immediately after the item has been considered and the vote is complete.

Councillors should check the Minutes of the Council Meeting to ensure their disclosure is recorded accurately.

Councillors are not required to disclose conflict of interest in relation to matters only considered at Meetings they do not attend.

Detailed information is available in Conflict of Interest – A Guide for Councillors June 2011.

Nil

Type of Interest		Example of Circumstance
Direct Interest		Reasonably likely that your benefits, obligations, opportunities or circumstances will be directly altered. Reasonably likely to receive a direct benefit or loss measurable in money. Reasonably likely that your residential amenity will be directly affected.
Indirect Interest	Close Association	A member of your family has a direct interest or an indirect interest. A relative has a direct interest. A member of your household has a direct interest.
	Indirect financial Interest	Likely to receive a benefit or loss, measurable in money, resulting from a change to another person's interest. Holding shares in a company or body that has a direct interest (subject to threshold) When a person with a direct interest owes money to you.
	Conflict of Duty	Manager or member of the governing body of an organisation with a direct interest. Trustee for a person with a direct interest. Past dealings in relation to the matter as duty to another person or body.
	Applicable Gift	Gifts valued at \$500 in previous 5 years. Election donations valued at or above \$500 in previous 5 years. Gifts other than election campaign donations that were received more than 12 months before a person became a Councillor are exempt.
	Party to the Matter	Initiated or became party to civil proceedings in relation to the matter.

Privacy

Council is required to keep minutes of each Council meeting. The minutes contain details of proceedings which may include personal information about community members disclosed as part of presentations, submissions and questions. The minutes of Council meetings are a public record and can be inspected by members of the public.

Council undertakes audio recordings of Council Meetings as a contribution to good governance and accuracy of minutes. An audio recording of this meeting is being made for the purpose of verifying the accuracy of minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, and subpoena or by any other law such as the Freedom of Information Act 1982. It should be noted that other people present at the meeting may be recording the meeting and Council has limited power to regulate this. Council has developed a policy to regulate recordings, "Sound Recording of Council Meetings". A copy of this policy is located on Council's website www.southgippsland.vic.gov.au. Further information or a copy of the policy or can be obtained by contacting Council's Organisational Development Department (Governance).

A.7 DECLARATION OF CONFLICT OF INTEREST FOR STAFF

Sections 80B and 80C of the Local Government Act 1989 require members of Council staff who have delegated functions and /or provide advice to Council or a Special Committee to disclose conflicts of interest. If Council staff have written, provided information/advice or approved a Council Report and have a conflict of interest it is the responsibility of that staff member to disclose the interest. Guidance to identifying and disclosing a conflict of interest is contained in Department of Planning and Community Development in '*Conflict of Interest A Guide for Council staff*', October 2011.

Nil

SECTION B - COUNCIL REPORTS

B.1 REVIEW AMENDMENTS AND APPROVE C14 COUNCILLOR CODE OF CONDUCT 2016

Corporate and Community Services Directorate

STAFF DISCLOSURE OF INTEREST

Nil

EXECUTIVE SUMMARY

Legislative changes to the Local Government Act 1989 require Council to review and approve amendments to C14 Councillor Code of Conduct by 30 June 2016, incorporating improved governance and conduct standards.

The previous C14 Councillor Code of Conduct 2013 is to be replaced with the revised C14 Councillor Code of Conduct 2016 (Code) in **Attachment 1**.

Document/s pertaining to this Council Report

- **Attachment 1** - C14 Councillor Code of Conduct May 2016

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

- Local Government Act 1989 (Act) Part 1A - Local Government Charter, Division 1 - The Mayor and other Councillors, Division 1A - Conduct and Interests, Divisions 1AB - Internal Resolution Procedure of Council, Division 1B - Councillor Conduct Panels, Division 2 - Procedures and Proceedings, Sections 29 and 94A
- Local Government Amendment (Improved Governance Act 2015)
- Occupational Health and Safety Act 2004
- Victorian Charter of Human Rights and Responsibilities Act 2006
- Information Privacy Act 2000 (VIC)

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

- Acceptance of Gifts and Donations 2014
- Anti – Discrimination, Bullying and Harassment Policy 2015
- Councillor Access to Council Information Policy 2016
- Councillor Support and Expenditure Policy 2015
- Councillor Vehicle Policy 2014

- Election Period Policy 2016
- Grievance Policy 2011
- Human Rights Policy 2013
- Occupational Health and Safety Policy 2013

COUNCIL PLAN

Outcome:	4.0	A Leading Organisation
Objective:	4.2	Pursue best practice in organisational development and operation of the organisation.
Strategy:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing improvement.

CONSULTATION

The State Government has conducted extensive consultation with the Local Government sector in the first part of its major reform of the Local Government Act 1989. This consultation identified an early requirement to implement reforms to the Councillor Conduct Framework. To this end the Local Government (Improved Governance) Act 2015 was passed by the State Government in October 2015 and proclaimed in February 2016.

The Executive Leadership Team and Councillors have been briefed on the legislated changes and the amendments incorporated into the revised Code. Councillors discussed the legislative changes at a briefing session on 3 February 2016 and the revised Code on 20 April 2016.

Legal advice has been sought and incorporated on the Councillor Code of Conduct.

REPORT

Background

Improved governance has been the focus of the State Government's 2015 amendments to the Act.

To that end a review of the Code has been undertaken and amendments made to reflect legislative changes. Findings from a confidential internal Audit Committee report have also been incorporated and discussions held with Councillors to arrive at the revised C14 Councillor Code of Conduct 2016 contained in **Attachment 1**.

The revised Code must be considered at a Special Meeting of Council called solely for the purpose of reviewing and approving the amendments.

Discussion

In summary the changes cover the following:

Roles of Mayors and Councillors are now defined with greater clarity articulating a clearer understanding of what is expected of Councillors and what they must not do.

1. Decision making of Council – active participation in making informed decisions and representing the local community. Amendments provide greater clarity on Councillors' responsibility to be mindful of;
 - a. The diversity of interests and needs of the local community;
 - b. The principles of good governance;
 - c. The strategic direction of the Council;
 - d. Civic leadership;
 - e. The responsible allocation of the resources of Council; and
 - f. Effective communication between the Council and the Community.
2. Councillors who improperly direct or influence a member of Council staff in the exercise of their duties will be in breach of Section 76E of the Act.

The functions of Mayors are now defined to provide greater clarity and to reflect the role of Mayor as it has evolved.

1. Guidance to Councillors – set the standards and actively reinforce appropriate standards of conduct and behaviour;
2. Principal spokesperson for the Council – reflect the Council position, not personal views;
3. Support good working relations between Councillors – actively foster positive relationships and curbing inappropriate, abusive, bullying, intimidating or other behaviours that may be divisive or damaging to Council's reputation or the orderly conduct of Council business;
4. Civic and ceremonial duties – represent Council at important civic functions and officiate at key local events; and
5. The management of Councillor conduct issues and a new framework within which conduct matters are to be managed.

Council Management of Councillor Behaviour has to be supported to manage as many matters as practicable internally.

1. Definition of bullying consistent with the definition in the Fair Work Act 2009;
2. Reinforce responsibility and authority of Councils to manage breaches of agreed conduct through a mandatory internal resolution procedure;
3. Only escalate matters when Council cannot resolve them;
4. The declaration of Councillors to abide by the Councillor Code of Conduct; including failure to sign the Code of Conduct;
5. Timing and process for developing a Councillor Code of Conduct, Council adoption and Councillors signing that they will abide by it;
6. Public access to the Councillor Code of Conduct;
7. Internal resolution procedure – required to address conduct that is in breach of the Councillor Code of Conduct;
 - a. Detailed process to manage the escalation of a conflict;
 - b. Independent arbiter;
 - c. Sanctions for breaches of the Code can be applied by Council;
 - d. Principal Council Conduct Registrar – appointed by the State;
 - e. Principal Conduct Officer;
 - f. Actions if the internal resolution fails; and
 - g. Checklist to be documented and captured for progressing through the levels of escalation required to resolve a conflict.

Proposal

C14 Councillor Code of Conduct 2016 (**Attachment 1**) is presented for Council's final consideration, approval and adoption.

Once adopted and within 1 month of adoption, each Councillor is required to declare in writing that they have read, understood and will abide by the Councillor Code of Conduct 2016 in accordance with Section 63 of the Act.

FINANCIAL CONSIDERATIONS

There are no specific financial implications arising from this review of the Code.

RISKS

The review and update of the Code has specifically addressed medium rated risks identified in the confidential internal governance audit. The adoption of this detailed Code will reduce the risk of breaching recent amendments to the Act and mitigate the potential for reputational risks created through inadequate internal resolution of conflicts between Councillors.

CONCLUSION

The State Government's requirement for Councils to strengthen good governance requirements relating to Councillor Conduct are reflected in the revised C14 Councillor Code of Conduct 2016 (**Attachment 1**).

RECOMMENDATION

That Council:

1. Reviews amendments to the Councillor Code of Conduct 2016 (Policy number C14) contained in Attachment 1;
2. Adopts the Councillor Code of Conduct 2016 (Policy number C14) contained in Appendix 1;
3. Seeks the signature of each individual Councillor to the revised Councillor Code of Conduct 2016 as soon as practicable but within one month of this policy adoption; and
4. Publishes the Councillor Code of Conduct 2016 on Council's website.

MOVED: Cr Fawcett

SECONDED: Cr Kennedy

THAT COUNCIL:

- 1. REVIEWS AMENDMENTS TO THE COUNCILLOR CODE OF CONDUCT 2016 (POLICY NUMBER C14) CONTAINED IN ATTACHMENT 1;**
- 2. ADOPTS THE COUNCILLOR CODE OF CONDUCT 2016 (POLICY NUMBER C14) CONTAINED IN APPENDIX 1;**
- 3. SEEKS THE SIGNATURE OF EACH INDIVIDUAL COUNCILLOR TO THE REVISED COUNCILLOR CODE OF CONDUCT 2016 AS SOON AS PRACTICABLE BUT WITHIN ONE MONTH OF THIS POLICY ADOPTION; AND**
- 4. PUBLISHES THE COUNCILLOR CODE OF CONDUCT 2016 ON COUNCIL'S WEBSITE.**

CARRIED UNANIMOUSLY

Attachment 1 - C14 Councillor Code of Conduct May 2016



South Gippsland Shire Council

COUNCILLOR CODE OF CONDUCT

Policy Number	C14	Directorate	Corporate Services
Council Item No.	B.1	Department	Governance Services
Special Meeting of	25 May 2016	Primary Author	Corporate Planning & Council Business Coordinator
Council Adoption Date			Manager Innovation & Council Business
Revision Date	15 February 2017	Secondary Author	

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POLICY OBJECTIVE

Council's primary objective is to endeavour to achieve the best outcomes for the local community having regard to the long term cumulative effects of its decisions (refer Section 3C (1) and (2) of the Local Government Act 1989 (the Act)).

The conduct of Councillors, as they work together as a democratically elected team, sets the 'tone' of the organisation in terms of how others perceive the professionalism and integrity of the South Gippsland Shire Council (the Council).

This Councillor Code of Conduct provides guidance in the conduct required of Mayors and Councillors of South Gippsland Shire Council as required by Section 76C of the Act 1989.

This Councillor Code of Conduct replaces the Councillor Code of Conduct adopted by Council on 26 June 2013.

SUPPORTING POLICIES OF COUNCIL

This Councillor Code of Conduct is to be read in conjunction with the following Council policies that elaborate on the requirements of Council and Councillors in the performance of their civic duties:

- Acceptance of Gifts and Donations 2014;
- Anti – Discrimination, Bullying and Harassment Policy 2015;
- Councillor Access to Council Information Policy 2016;
- Communication and Engagement Policy 2014;
- Councillor Support and Expenditure Policy 2015;
- Councillor Notice of Motion Guidelines 2013;
- Council Use of Term Mayoral Policy 2016;
- Council Use of Logo Policy 2016;
- Council Use of Term Mayoral 2016;
- Councillor Vehicle Policy 2014;
- Election Period Policy 2016;
- Grievance Policy 2011;
- Human Rights Policy 2013;
- Information Privacy Policy 2015;
- Information Security Standards 2015;

Councillor Code of Conduct 2016

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- Information Technology Standards 2015;
- Mayor, Deputy Mayor and Councillor Attendance at Functions Policy 2014;
- Occupational Health and Safety Policy 2013;
- Corporate Information Management Policy 2013;
- Risk Management Policy 2012;

LEGISLATIVE PROVISIONS

- Local Government Act 1989
- Local Government Amendment (Improved Governance) Act 2015
- Victorian Civil and Administrative Tribunal Act 1998 (VCAT)
- Accident Compensation Act 1985
- Equal Opportunity Act 2010
- Victorian Charter of Human Rights and Responsibilities Act 2006
- Occupational Health and Safety Act 2004
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975
- Racial and Religious Tolerance Act 2001 (Vic)
- Sex Discrimination Act 1984
- Independent Broad-based Anti-Corruption Commission (IBAC) Act 2011
- Protected Disclosure Act 2012
- Victorian Inspectorate Act 2011
- Public Interest Monitor Act 2011
- Privacy and Data Protection Act 2014 (Vic)



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DEFINITIONS

In this Councillor Code of Conduct:

Assembly of Council	<p>Has the same meaning as in Section 3(1) - Definitions of the Local Government Act 1989:</p> <p>"means a meeting of an advisory committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be —</p> <p>(a) the subject of a decision of the Council; or</p> <p>(b) subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee —</p> <p>but does not include a meeting of the Council, a special committee of the Council, an audit committee established under Section 139, a club, association, peak body, political party or other organisation."</p>
Chair	<p>A person elected or given the responsibility to preside over the meeting, conduct proceedings in accordance with an Agenda, determine the sense of the meeting, preserve order, adjourn the meeting if necessary, control the voting process, control the time allocation of various aspects of the meeting, declare a meeting open or closed and sign the minutes. Refer to Clauses 5 and 30(a) in Local Law No.3 2010.</p>
CEO / Chief Executive Officer	<p>The Chief Executive Officer has the same meaning as in Section 3(1) – Definitions in the Local Government Act 1989:</p> <p>"means the person appointed by a Council to be its Chief Executive Officer or any person acting in that position."</p>
Council	<p>Has the same meaning as in Section 3(1) of the Local Government Act 1989:</p> <p>"means a municipal council whether constituted before or after commencement of Section 3 of the Act."</p> <p>And the same meaning as in Clause 5 of the Local Law No. 3 2010:</p> <p>"Means the South Gippsland Shire Council."</p>
Councillor(s)	<p>Has the same meaning as in Section 3(1) - Definitions of the Local Government Act 1989:</p> <p>"means a person(s) who holds the office of member of the Council."</p>



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Councillor Code of Conduct	Has the same meaning as in Section 3(1) – Definitions of the Local Government Act 1989: "means the code of conduct developed by a Council under Section 76C".
Ordinary Meeting	Has the same meaning as in Section 83 of the Local Government Act 1989: "ordinary meetings at which general business of the Council may be transacted."
Participants in a meeting	Includes Councillors, Council Staff, Media, public presenters and people observing in the gallery.
Public	Means community members, representatives of community groups, consultants acting on behalf of Council or community members and media representatives.
Special Meeting	Has the same meaning as in Section 83 of the Local Government Act 1989: "special meetings at which the business specified in the notice calling the meeting may be transacted."

POLICY STATEMENT

Introduction

- 1 Councillors of South Gippsland Shire Council are committed to working together constructively and respectfully as a team to achieve Council's shared vision for our Shire.
- 2 This Councillor Code of Conduct is Councillors' commitment to governing the Shire effectively and adhering to the principles of good governance. In carrying out their oath of office Councillors are committed to working together in the best interests of the people within the municipality and will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1989 to the best of their skill and judgment.
- 3 This Councillor Code of Conduct does not apply to staff. Council staff are bound by the Staff Code of Conduct.



Vision, Mission and Core Values

- 1 As Councillors our vision and mission is to develop communities in charge of their own destinies in partnership with Council, thereby achieving a resilient and sustainable community.
- 2 As Councillors we declare our commitment to work together constructively to enable Council to review, develop and achieve the key strategic directions of the Council, including the Council Plan, in a manner that is consistent with Council's values of:
 - a. Integrity;
 - b. Community Engagement;
 - c. Collaboration;
 - d. Innovation and Achievement;
 - e. Openness and Honesty;
 - f. Equity;
 - g. Diversity; and Inclusion.

These values are outlined in the Council Plan - Vision, Mission and Values Statement

- 3 In accordance with Section 76C of the Act, Councillors will, within one month of this policy adoption and/or at the swearing in of Councillors at the Statutory Meeting of a newly elected Council, make a declaration stating they will each abide by the Councillor Code of Conduct. This will be recorded by each Councillor signing their declaration at the end of this Councillor Code of Conduct and witnessed by the CEO.

Roles of Council, Mayors and Councillors

- 1 In achieving the primary objective of a council the role of the Council is to provide leadership for the good governance of the South Gippsland Shire (refer Section 3D of the Act). This is best achieved by Councillors working together as a united team, listening to and giving consideration to each other's views, while ultimately seeking to achieve the best outcomes for the local community, having regard to the long term-cumulative effects of their decisions.
- 2 The role of the Council requires all Councillors together to (*refer to Section 3D and 3E of the Act*):
 - a. Act as a representative government by considering the diversity of interests and needs of the local community in decision making;
 - b. Advocate the interests of the local community to other communities and governments;



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- c. Provide leadership by establishing strategic objectives and monitoring their achievement;
 - d. Maintain the viability of the Council by ensuring resources are managed in a responsible and accountable manner;
 - e. Act as a responsible partner in government by taking into account the needs of other communities; and
 - f. Actively foster community cohesion and encourage active participation in civic life.
- 3 To achieve the role of Council the role of Mayor and the Deputy Mayor in the Mayor's absence requires the Mayor to *(refer Sections 73, 73AA and 90 of the Act and Council's Local Law No. 3 2010)*:
- a. Take precedence at all municipal proceedings within the Shire.
 - b. Lead the Council and Councillors as chairperson of all meetings at which they are present, having a casting vote where necessary;
 - c. Establish and promote appropriate standards of conduct and provide guidance to Councillors in these required standards including observing the Councillor Conduct Principles, Councillor Code of Conduct and Meeting Procedures Local Law;
 - d. Raise inappropriate behavioural and/or conduct issues with individual Councillors or groups of Councillors such as personal abuse, bullying and/or intimidating behaviour towards other Councillors, Council staff or members of the public;
 - e. Actively foster positive relationships between Councillors, encouraging cooperation and promoting unity within the environment of robust debate and varying opinions while curtailing behaviour that is divisive, manipulative or likely to damage the reputation of Council;
 - f. Fulfil the duty of principal spokesperson of the Council, particularly with the media and at public events;
 - g. Lead discussions and advocacy matters with important stakeholders, businesses and other tiers of government to promote the interests of the Council and the local community – at all times representing the Council's views rather than their individual views and articulating Council policies and positions fairly and accurately; and
 - h. Undertake civic and ceremonial duties in a responsible, respectful and dignified manner including officiating at local municipal events (including Citizenship Ceremonies and Australia Day Awards and the celebration of significant occasions such as ANZAC Day).



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- 4 To achieve the role of Council and support the role of Mayor, the role of Councillor requires Councillors to (*refer to Section 65 and Part 4 Division 1A of the Act*):
 - a. Support the Mayor to build and maintain good working relations between Councillors and between Councillors and the organisation, by being pro-actively involved in resolving matters of concern through early resolution at the lowest possible level of conflict escalation. (Refer to the Councillor and Executive Leadership Dispute Resolution Matrix and Process in Attachment 1) (Refer to Part 4 Division 1AB and 1B of the Act and the Guide for Councils to the reforms arising from the Local Government (Improved Governance) Act 2015.)
 - b. Conduct themselves in a professional manner at all times, promoting good relations between each other, and support the Mayor in dealing robustly and conscientiously with any issues that may become divisive, create disunity in the team or reflect in a way that damages the reputation of the Council;
 - c. Actively participate in the informed decision-making of the Council, including being present and accountable for the vote on as many decisions as possible at Council meetings;
 - d. Ensure they are properly informed on issues of significance to the local community by reading reports and briefing papers; attending as many briefings and public presentations as possible.
 - e. Represent the local community in transparent decision-making without limiting their considerations to individual interests or those of particular Wards, community or interest groups;
 - f. Collectively contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan;
 - g. Balance the competing needs of different segments of the community in deciding on resource allocations within budget constraints by understanding community needs, listening carefully to advice, and making commitments based on sound financial management principles, including Council's adopted Financial Strategies;
 - h. Understand the legal obligations that accompany a Councillors role by avoiding and disclosing conflicts of interest, ensuring they do not misuse their position for gain or to cause detriment, exercising common sense in making judgements and seeking legal advice when they are not sure of their obligations. (*Refer Sections 79 and 76D of the Act*);
 - i. Be reasonably accessible to community members, responding to their calls, attending appointed committee meetings, attending civic and community events or meetings, and providing a liaison point between Council and the community to share views between various parties and Council; and



- j. Abide by all adopted Council policies; paying particular attention to policies providing good governance guidance and directions for Councillors.
- 5 Functions Councillors *must not* perform in exercising their role include any of the specified functions of the CEO under Part 4 Division 3 – Council Staff of the Act including but not limited to (refer to Section 65 (3) and Part 4 Division 3 of the Act):
 - i Implementing Council actions;
 - ii Influencing or giving directions to staff in the exercise of their duties; or
 - iii Using their position to seek information for gain or to cause detriment.

Councillors who improperly direct or influence a member of Council staff in the exercise of their duties will be in breach of Section 76E of the Act.

Councillor Conduct Principles

Councillors endorse and agree to act in accordance with the Councillor Conduct Principles specified in Sections 76B and 76BA of the Act.

In carrying out their role as Councillors, Councillors will:

- 1 Act with integrity;
- 2 Impartially exercise his or her responsibilities in the interests of the local community;
- 3 Not improperly seek to confer an advantage or disadvantage on any person; and
- 4 Consider and respect human rights when developing policies and making decisions that affect the community.

In addition, in performing their role as a Councillor, Councillors will:

- 5 Avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- 6 Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- 7 Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- 8 Exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- 9 Endeavour to ensure that public resources are used prudently and solely in the public interest;



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- 10 Act lawfully and in accordance with the trust placed in him or her as an elected representative, and
- 11 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.

Councillor Ethical Behaviour Checks

Councillors will reflect these Conduct Principles by demonstrating proactive behaviours that withstand the 'reasonable person test'. Examples of acceptable and unacceptable outcomes', along with personal checklist questions for self and team reflection include:

Conduct Requirements	Acceptable Behaviour Outcomes	Unacceptable Behaviour Outcomes
<p>I have treated all people with courtesy and respect, recognising and valuing legitimate differences in opinions, race, culture, religion, language, gender and abilities.</p> <p><i>I have treated others how I want to be treated.</i></p>	<p>People leave feeling they have retained their personal dignity, they have been treated as equals and that all Councillor(s) have been interested in hearing their opinions and views; irrespective of any differences of opinion or the Council's ultimate decision.</p>	<p>People leave feeling they have been made to look foolish, intimidated or have been embarrassed.</p> <p>Or they have felt many Councillors were not paying them any attention or listening to their points of view.</p>
<p><i>Check list question:</i></p>	<p><i>Have I consciously tried to build positive relationships with all my fellow Councillors, the Executive and members of the community today?</i></p>	<p><i>How effective have my efforts been?</i></p> <p><i>What could I have done differently?</i></p> <p><i>What challenged me this time?</i></p>
<p>I have impartially exercised my responsibilities in the best interests of the whole community.</p> <p><i>I have left a positive legacy that others can build on.</i></p>	<p>People leave feeling that contentious subject matters have been debated wisely from a range of angles leading to a beneficial outcome that the majority of the community will respect, even if it is not in their own personal interest.</p>	<p>People leave feeling that the debate was compromised through Councillors resorting to personal acrimony or insult. The debate was more about personal interest/egos than community interest.</p>



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<p><i>Check list question:</i></p>	<p><i>Have my actions, words, or behaviours this week built a positive image of Council and have I proactively reinforced the decisions made by Council?</i></p>	<p><i>How effective have my efforts been?</i></p> <p><i>What could I have done differently?</i></p> <p><i>What challenged me this time?</i></p>
<p>I have been punctual in my attendance at Council, briefing and committee meetings and wherever possible remained in attendance to ensure that the best possible access to information that is required in responsible decision making is obtained.</p> <p><i>I have conscientiously performed the powers vested in me as an elected representative of the South Gippsland Shire Council.</i></p>	<p>People leave feeling an increased level of respect that all Councillors have dutifully fulfilled their responsibilities and reached a clear decision.</p>	<p>People leave feeling frustrated and angry that a Councillor(s) has neglected their elected responsibility, particularly on decisions that are contentious.</p>
<p><i>Check list question:</i></p>	<p><i>Have I left a Council Meeting agenda item at this meeting at an inappropriate time thereby either inadvertently or purposefully abstaining from voting on a contentious matter?</i></p> <p><i>Have I left a briefing meeting or committee meeting, or not attended a session that I am personally not interested in or to pursue other personal interests thereby diminishing my ability to make an informed decision?</i></p>	<p><i>Have I done this more than once in the past three meetings or briefings?</i></p> <p><i>Why did I leave on this occasion?</i></p> <p><i>What could I have done differently?</i></p>



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<p>I have acted in a way that supports the Mayor and my fellow Councillors in setting a clearly united leadership example that secures and preserves public confidence in the office of Councillor.</p> <p><i>I have restored community faith in Council.</i></p>	<p>People leave feeling that this is a Council actively working together to resolve difficult problems on behalf of the community. They comment on the unity and integrity shown by all Councillors at all times.</p>	<p>People leave feeling anxious and discouraged that Council lacks direction and focus on the future.</p>
<p><i>Check list question:</i></p>	<p><i>Have I made myself, all my fellow Councillors and Council as a whole look and sound like a united intelligent, considered leadership team to the community?</i></p>	<p><i>How effective have my efforts been?</i></p> <p><i>What could I have done differently?</i></p> <p><i>What challenged me this time?</i></p>
<p>I have acted in accordance with the laws that regulate Council activities and within the powers of the Council.</p> <p><i>I have acted lawfully and humbly honour the trust placed in me as an elected representative.</i></p>	<p>People leave feeling that they have met with Councillors who are above reproach; adhering to the laws of the land and Council's own policies, strategies and decisions.</p>	<p>People leave with concerns that their Councillors act dishonestly, using their positions for personal gain or to benefit individuals who seek to use a Councillor(s) influence to further their own advantage or to the detriment of another and/or the broader community as a whole.</p>
<p><i>Check list question:</i></p>	<p><i>Have I acted lawfully exercising reasonable care and due diligence enough to be open to public scrutiny of all of my actions?</i></p> <p><i>Have I satisfactorily articulated my understanding of both sides of the matter?</i></p>	<p><i>Would I be subject to ridicule if something I said, or did, or wrote ended up negatively represented on the front page of a newspaper or the TV newscast?</i></p> <p><i>Have I harmed or detrimentally impacted on others as a result?</i></p>



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I hold myself accountable for my own actions in dealing honestly, respectfully and openly with others and for proactively taking actions to resolve conflicts before they escalate into inappropriate behaviour.	I leave each day feeling proud of what we have achieved as a team, without any sense of acrimony towards anyone else.	I leave each day feeling angry, dismayed or annoyed at my own actions and those of others in our team. I regret not taking a proactive stance to challenge inappropriate behaviour displayed by one or more members of our team.
<i>Check list question:</i>	<i>Have I treated others with courtesy, allowing them an opportunity to share their thoughts and opinions?</i> <i>Was I honest in what I said or inferred, or did I deliberately stray from the truth a little (or a lot), or use examples that would mislead or deceive others as a means to sway an argument my way?</i>	<i>Do others criticise me for speaking over the top of them or others?</i> <i>Do I need to be mindful to listen more than I speak?</i> <i>Are some of my actions reflecting a bullying or harassing stance that I need to change?</i> <i>Would all other Councillors score me 8 out of 10 or above for my honesty with them?</i> <i>What score would they give me for courtesy, respecting others or for my integrity?</i>



Council Decision Making

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

- 1 Will actively and openly participate in the decision making process, striving to be informed to achieve the best outcome for the community;
- 2 Will respect the views of the individual in the debate. However, Councillors will also accept that decisions are based on a majority vote;
- 3 Accept that no Councillor can direct another Councillor on how to vote on any decision; and
- 4 Will accept that a decision, once made, is the policy position of Council and, out of respect for Council's decision will accurately state Council's position when expressing independent views on the matter (Refer clause 3 'Communication').

Confidential Information

Councillors acknowledge that they will comply with their obligations under Section 77 of the Act in relation to confidential information (as defined under the Act). Councillors recognise that this obligation extends to ensuring the safekeeping of confidential information.

Access To and Use of Council Information

Councillors will treat Council information appropriately in accordance with the 'Councillor Access to Council Information Policy' 2016, by:

- 1 Not using information gained by virtue of their position as a Councillor for any purpose other than the exercise of their role as a Councillor;
 - a Respecting and following the Council's policies in relation to public comments and communications with the media;
 - b Not releasing information deemed 'confidential information' in accordance with Section 77 of the Act. This also includes information that would reasonably be perceived as confidential even if not declared in writing; and
 - c Recognising the requirements of the Privacy and Data Protection Act 2014 regarding the access, use and release of personal information.
- 2 Councillors support the requirement that all requests made by Councillors for briefings from Council Officers or access to information on Council files will be made through the relevant Director.



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Use of Council Resources (Including Funds and Property)

Council resources are to be used effectively and economically. Specifically:

- 1 Councillors will maintain adequate security over Council property, facilities and resources provided to them to assist in the performance of their role;
- 2 Councillors will not use Council resources, including the services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate;
- 3 Councillors will not use public funds or resources in a manner that is improper or unauthorised; and
- 4 A Councillor will seek authorisation from the Council through the Mayor prior to using public funds or resources for any purpose that is not a standard/regular practice (covered specifically in the 'Councillors Support and Expenditure Policy') or doing something that is likely to incur expenditure that may not necessarily be deemed an acceptable use by the broader community.

Relationships with Staff

- 1 Councillors will work as part of the Council team with the CEO and other members of staff. There must be mutual respect and understanding between Councillors and Officers in relation to their respective roles, functions and responsibilities;
- 2 A Councillor's role is one of advocacy and leadership rather than management and administration. The CEO is responsible for all staff matters; and
- 3 Councillors will understand the requirements of Section 76E of the Act and acknowledge they must not seek to improperly direct or influence members of Council staff in the exercise of staff duties. It is appropriate to notify the relevant Director when urgent specific issues or particular functions may be required to be undertaken. For non-urgent tasks or customer requests raised on behalf of the community or a community member, Councillors will log a customer request by calling Customer Service on 03 5662 9229 or use the online facility on Council's website.

Gifts

Councillors will not accept gifts either in their role as Councillor or where it could be perceived to influence a Councillor in their role as a Councillor except:

- 1 Where the gift would generally be regarded as only having a token value and could not be perceived to influence their actions as a Councillor; or
- 2 Where refusal may cause offence or embarrassment, in which case Councillors will accept the gift on behalf of the Council and the gift becomes the property of Council. This gift is to be recorded on Council's Gifts register.

Councillors will adhere to Council Policy - Acceptance of Gifts and Donations.



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Communication

As representatives of the community, Councillors have a primary responsibility to be responsive to community views and to adequately communicate the attitudes and decisions of Council.

Councillors will endeavour to ensure that the messages they communicate through the media are clear, consistent and positively portray Council as a decisive and responsible governing body. Specifically:

- 1 The Mayor will provide official comment to the media on behalf of Council where the matter is of a political, controversial or sensitive nature. This includes:
 - a State-wide political issues affecting Local Government;
 - b Contentious local issues that impact the community and which do not relate directly to the business of Council but to the representation of the community;
 - c Issues pertaining to policy and Council decisions;
 - d Issues relating to the strategic direction of the Council; and
 - e The Mayor may authorise the Deputy Mayor, an appointed committee Councillor or other Councillor to make official comment on behalf of Council, where appropriate.
- 2 The CEO is the official spokesperson for all operational matters pertaining to the Council as an organisation, including:
 - a Staffing and structure of the organisation;
 - b Corporate information and issues relating to service provision or the day-to-day business of Council to ensure the community are able to reach an informed position; and
 - c The CEO may delegate a Council Officer spokesperson if appropriate.
- 3 Individual Councillors are entitled to express independent views through the media (including social media), however Councillors will make it clear that any unofficial comment is a personal view, and does not represent the position of the Council as a whole. In these instances a Councillor will incorporate:
 - a Prominently displayed legible wording; and
 - b Where a Council decision on a matter has been made the Councillor must accurately state Council's position so as not to mislead, deceive or be perceived to mislead or deceive, the community; or
 - c Where a Council decision has not been made on a matter the Councillor will ensure their individual views and comments do not commit Council to an action that has not been a decision of Council.



Conflict of Interest Procedures

The Council is committed to making all decisions impartially and in the best interests of the whole community. It therefore recognises the importance of every Councillor fully observing the requirements of the Act in regard to the disclosure of conflicts of interest.

For the purpose of this Councillor Code of Conduct, "direct interest", "indirect interest" and "conflicts of interest" have the meanings specified in the Act.

Councillors will comply with all the provisions of the Act in regard to Conflicts of Interest:

- 1 If a Councillor considers that they have a direct or indirect interest in a matter before the Council, a Special Committee of Council or an Assembly of Councillors, they have a conflict of interest;
- 2 If a Councillor has a conflict of interest in a matter, they will comply with the requirements of Part 4 Division 1A – Conducts and Interests in the Act and ensure they disclose the class and nature of the interest and leave the room in which the meeting or assembly is being held during any discussion, debate and vote on the matter; and
- 3 If a Councillor has a personal interest in a matter to be considered by the Council or special committee that is not a conflict of interest, and the Councillor considers that their personal interest may be in conflict with their public duty to act impartially and in the interest of the whole community, the Councillor will declare a conflicting personal interest under Section 79B of the Act immediately before the matter is considered at the relevant meeting. They will apply to the Council or Special Committee to be exempted from voting on the matter. At a Council Meeting this exemption is granted only by resolution of Council.

In addition to the requirements of the Act:

- 4 Councillors will give early consideration to each matter to be considered by the Council, any Special Committee to which Councillors belong or Assembly of Councillors, to ascertain if they have a conflict of interest.
- 5 Councillors will recognise that the legal onus to determine whether a conflict of interest exists rests entirely with each individual Councillor. Council Officer cannot offer any advice in relation to potential conflicts. If Councillors cannot confidently say that they do not have a conflict of interest, they will declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest; and
- 6 If Councillors consider that they may be unable to vote on a matter because of a conflict of interest they will notify, as soon as possible, the Mayor or the Committee Chair, depending on whether the matter is to be considered by the Council, a Special Committee or an Assembly of Councillors, as well as the CEO.



Councillor Attendance at Events or Functions

The role of Mayor, in accordance with Section 73 of the Act, is to take precedence at all municipal proceedings within the municipal district.

In undertaking this role, the Mayor is deemed to be Council's principal Councillor appointed to attend key, strategic external (non-Council) events or functions.

- 1 The Mayor may decide to authorise another to attend an external event or function. This may be:
 - a The Deputy Mayor, if Council has chosen to elect a Deputy Mayor, whose role it is to deputise for the Mayor in providing a leadership and formal representational presence at civic, ceremonial and public engagements; or
 - b Any other Councillor, as determined by the Mayor.
- 2 While the Mayor is typically Council's key representative, there are many committees (both Council and external) and external bodies where Council has involvement. It is acknowledged that:
 - a It is Council's practice to share representation among all Councillors, to ensure a manageable workload, by appointing a Councillor(s) to a committee or external body.
 - b Where a Councillor has been appointed to a committee or external body, it is expected that the Councillor will be Council's representative at as many meetings, functions and events of that committee or external body as practicable.
 - c Where a Councillor is unable to attend a function, the Councillor, where possible, is required to find a suitable replacement Councillor, or where relevant a Council staff member, to attend on their behalf.
- 3 When representing Council at either a Council or external function or event, Councillors are expected to adhere to this Councillor Code of Conduct and not act in ways that may damage the Council or commit Council to an action that has not been a decision of Council.



Dispute Resolution Procedures

Councillors may find themselves in a personal conflict or dispute between themselves and another Councillor, the Mayor, CEO or Director. Section 81AA of the Act requires Council to have an internal resolution procedure for the purposes of addressing an alleged contravention of Council's Code of Conduct by a Councillor. A detailed process is set out in Attachment 1.

Councillors agree to exhaust this internal process to resolve a dispute at the earliest possible stage before escalating a matter of alleged misconduct or serious misconduct to the Principal Councillor Conduct Registrar. An overview of the main internal resolutions steps include:

- 1 Stage 1 – Parties meet together to resolve the conflict between themselves:
 - a Note - The dispute resolution procedure is not intended to resolve differences in policy or decision making, which are appropriately resolved through debate and voting in Council and Committee meetings.
- 2 Stage 2 – Parties meet together with the Mayor and/or CEO (where a matter involves Officers) to resolve the conflict. The Mayor and/or CEO will determine at the end of Stage 2 if the matter should be referred to:
 - a Stage 3A – A Mediator if the matter relates to an interpersonal conflict; or
 - b Stage 3B – An independent Arbiter to arbitrate if the matter relates to an allegation of a breach of the Councillor Code of Conduct. The Mayor may seek legal advice prior to appointing an Arbiter, if appropriate, and, depending on the matters in dispute, to determine if the allegations are serious enough to progress directly to either Stage 3C or 3D; or
 - c Stage 3C – The Principal Councillor Conduct Registrar to establish a Councillor Conduct Panel if the matter relates to breaches of the Councillor Conduct Principles (misconduct); or
 - d Stage 3D – The Minister for Local Government and/or the Local Government Investigations and Compliance Inspectorate ("the Inspectorate") if the matter relates to possible offences under the Act, potential breaches of the Act, or allegations of misconduct, serious misconduct or gross misconduct by a Councillor that may require investigation.
- 3 Stage 3A – The Mayor (through the CEO) will appoint an independent Mediator. Parties meet with the Mediator.
 - a If a Mediator is appointed, all parties agree to cooperate with the dispute resolution process and use their best endeavours to assist the Mediator when requested;
 - b The Mediator will ensure both parties affected are given the opportunity to be heard; and



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- c The Mediator will work with both parties in an endeavour to reach a suitable outcome.
- 4 Stage 3B – The Mayor (through the CEO) will appoint an Arbiter who has the authority to arbitrate the matter in accordance with Section 81AA of the Act;
 - a The Arbiter will consider applications alleging a contravention of the Councillor Code of Conduct by a Councillor;
 - b The Arbiter will ensure both parties affected are given the opportunity to be heard and present evidence to support their case; and
 - c The Arbiter will make findings in relation to any application alleging a contravention of the Councillor Code of Conduct. The Arbiter must provide a written report of their findings and decision, giving reasons for any findings, to the Council and to the Councillor who is the subject of the allegations.
 - d If, after an internal resolution procedure has been conducted, it is found by the Arbiter that a Councillor has contravened the Councillor Code of Conduct, a resolution of Council may give any or all of the following written directions to the Councillor:
 - i Direct the Councillor to make an apology in a form or manner specified by the Council;
 - ii Direct the Councillor to not attend up to, but not exceeding, 2 Ordinary and/or Special meetings of Council, these being the next scheduled meeting(s) after the direction is made;
 - iii Direct that for a period of up to, but not exceeding, 2 months commencing on a date specified by the Council, the Councillor:
 - (1) Be removed from any position where the Councillor represents Council; and
 - (2) Not chair or attend any Advisory Committee or Special Committee meeting or an Assembly of Councillors or any other meeting specified in the direction.
- 5 Stage 3C – The Mayor will, if Council has resolved to apply for the formation of a Councillor Conduct Panel, prepare a letter to the Principal Councillor Conduct Registrar requesting that a Councillor Conduct Panel be established. The Mayor is to introduce the request, while a Councillor representative is to prepare and provide the details of the matter.
- 6 Stage 3D – The Mayor (through the CEO) will notify the Minister for Local Government and/or the Inspectorate requesting an investigation into a potential breach of, or possible offence of the Act. Allegations of misconduct, serious misconduct or gross misconduct under the Act may also be referred to the Minister. This would be for matters that are not the subject of an application to a Councillor Conduct Panel.



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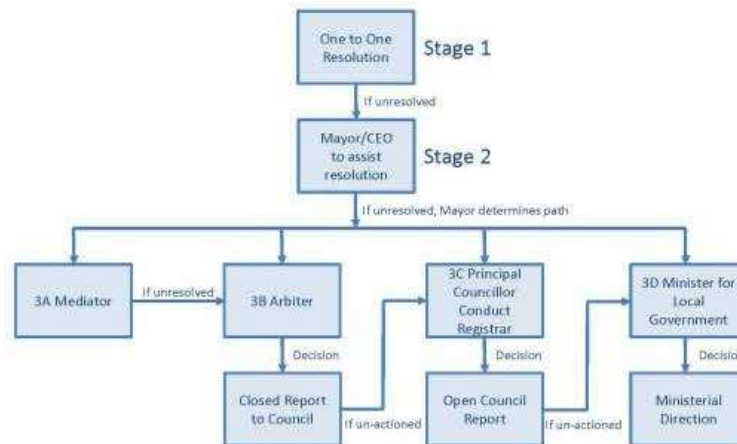
- 7 Stage 4A - In the event that a dispute has not been resolved through application of Stage 3A and/or 3B, including the failure of a Councillor to abide by the Arbiter's and/or Council's direction, the dispute is to be referred to the Primary Councillor Conduct Registrar seeking the establishment of a Councillor Conduct Panel in accordance with Part 4 Division 1B – Councillor Conduct Panels and specifically Section 81B of the Act.

In general terms this will follow the process steps and requirements outlined for Stage 3C.

- 8 Stage 4B – In the event that there is an alleged breach of the Act created by a Councillor not complying with the requirements of a Councillor Conduct Panel Report, or if the Councillor Conduct Panel find a breach of the Act while undertaking a Hearing, the Minister of Local Government/Chief Municipal Inspector is to be notified in accordance with Sections 81O and 81P of the Act.

The Councillor Conduct Panel Chair would notify the Chief Municipal Inspector if a breach is found in the course of a Councillor Conduct Panel Hearing, while the Mayor and/or CEO will advise the Minister for Local Government requesting an investigation into an alleged breach of the Act if requirements of the Councillor Conduct Panel Report are not complied with.

Dispute Resolution Process Flowchart





Allegations of Breaches of the Councillor Code of Conduct

- 1 Allegations of breaches of the Councillor Code of Conduct between Councillors and/or Councillors and the Mayor are to be referred to the Mayor, or Deputy Mayor if the Mayor is the party alleged to have breached the Councillor Code of Conduct. Refer to Dispute Resolution Procedures and to Attachment 1 for the process to manage a conflict under this Councillor Code of Conduct.
- 2 Allegations of breaches of the Councillor Code of Conduct between Councillors and staff.
 - a The CEO has sole responsibility for the management of Council staff. In the event of a Councillor wishing to lodge a complaint against a member of Council staff, this complaint must be lodged with the CEO. Where the complaint is about the CEO, the complaint must be lodged with the Mayor. It will be dealt with in accordance with the procedures outlined in the Staff Anti-Discrimination Bullying and Harassment Policy and Grievance Policies.
 - b Where a staff member has a complaint in respect of a Councillor, the complaint must be made to the CEO who will, if deemed appropriate, discuss the matter with the Mayor. Where the Mayor deems a breach of the Councillor Code of Conduct has occurred, the Mayor will progress the matter in accordance with the Dispute Resolution Procedures. Where the complaint involves the Mayor, the CEO will assume the responsibilities of the Mayor for the purpose of this complaint with assistance from the Deputy Mayor if appropriate.
- 3 Allegations of breaches of the Councillor Code of Conduct against a Councillor(s) or Mayor arising from complaints from a member of the community.
 - a The Mayor and/or CEO will not allow members of the public or the media to verbalise a complaint, or ask potentially confronting or accusatory questions relating to an individual Councillor or member of staff, in any meeting of Council that is open to the public.
 - b Any allegation, accusation or complaint made by a community member or the media towards a Councillor and/or Mayor are to be made in legible writing, dated and signed with contact details provided. Anonymous accusations, allegations or complaints will not be investigated.
 - c The allegation or complaint will be referred to the Mayor (unless the allegation relates to the Mayor) for initial investigation and determination for appropriate action under the Dispute Resolution Procedures and / or referral to Council's Protected Disclosure Officer if the matter is better dealt with under the Protected Disclosure Act 2012.
 - d If the allegation or complaint relates to the Mayor, the matter should be referred to the CEO in the first instance, and the CEO will, in turn, either refer the matter to Council which will deal with the matter in accordance with the Dispute Resolution Procedures and / or referral to Council's Protected Disclosure Officer if the matter is better dealt with under the Protected Disclosure Act 2012.



- 4 Other bodies to which complaints may be referred.
 - a Complaints and allegations about improper conduct and detrimental actions by Councillors can also be made to the Victorian Ombudsman by members of the public; or
 - b Complaints and allegations about serious corrupt conduct can be made to the Independent Broad-based Anti-corruption Commission (IBAC). Complaints and allegations can also generally be made to the Inspectorate.

Penalties / Sanctions

Breaches of the Councillor Code of Conduct can lead to investigation, sanctions and action under the Act or any other relevant legislation.

Council has limited powers under Section 81AB to apply sanctions for contraventions of the Councillor Code of Conduct.

RISK ASSESSMENT

Council, through adopting this Councillor Code of Conduct is:

- 1 Complying with the requirements of Section 77C of the Act;
- 2 Reducing the risk of legislative non-compliance of the Act more broadly by Councillors, by clearly outlining the expectations and legislative requirements of Councillors;
- 3 Providing a clear means of managing allegations of breaches of the Councillor Code of Conduct by Councillors or complaints against Councillors; and
- 4 Mitigating potential reputational risks.



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IMPLEMENTATION STATEMENT

This Councillor Code of Conduct forms part of the tool kit that supports the Mayor and Councillors to work together as a united team, respecting the diversity of views shared and in performing their duties in a diligent and professional manner.

Council will implement this policy by:

- 1 Requesting all Councillors to sign the adopted Councillors Code of Conduct in accordance with the Act. This will be captured as a permanent record. A Councillor failing to sign the Councillor Code of Conduct in accordance with the Act will be referred to Local Government Victoria for investigation and dismissal.
- 2 Providing a copy of the signed Councillor Code of Conduct to all Councillors;
- 3 Publishing a copy of the Councillor Code of Conduct on Council's website and have a copy available for inspection at the Council Office;
- 4 Communicating the Councillor Code of Conduct to staff through the Leadership Team and/or CEO briefings following adoption by Council; and
- 5 Following the procedures outlined in Attachment 1 of the Councillor Code of Conduct when required.



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COUNCILLOR DECLARATIONS

I, Cr Robert Newton, Mayor, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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COUNCIL POLICY

I, Cr Mohya Davies, Deputy Mayor, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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COUNCIL POLICY

I, Cr Lorraine Brunt, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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COUNCIL POLICY

I, Cr James Fawcett, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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COUNCIL POLICY

I, Cr Jeanette Harding, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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COUNCIL POLICY

I, Cr Donald Hill, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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COUNCIL POLICY

I, Cr Nigel Hutchinson-Brooks, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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COUNCIL POLICY

I, Cr Kieran Kennedy, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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I, Cr Andrew McEwen, declare that I have read, understand and will abide by the Councillor Code of Conduct 2016, in accordance with Section 63 of the Local Government Act 1989.

Signature		Date:	
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Witness Acting Chief Executive Officer Bryan Sword

Signature		Date:	
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ATTACHMENT 1 - COUNCILLOR AND EXECUTIVE LEADERSHIP DISPUTE RESOLUTION MATRIX AND PROCESS

Introduction

The dispute resolution matrix and process is to be used in managing the articulation, resolution, escalation and implementation of matters arising from conflicts between (refer to Issue Resolution Matrix Diagram 1):

1. Councillors;
2. Councillor(s) and the Mayor;
3. Councillor(s) and the Chief Executive Officer;
4. Councillor(s) and a Director(s);
5. the Mayor and CEO; and
6. the Mayor and Director(s);

Issue Resolution Matrix Diagram 1

Councillors		Council Officers	Resolution Time	Third Party Support
Councillor	Councillor		Stage 1 2 Days	Mayor
Councillor	Mayor		Stage 1 1 Week	Deputy Mayor and CEO MAV assistance if required
Councillor		CEO	Stage 1 2 Days	Mayor and MAV assistance if appropriate
Councillor		Director	Stage 1 2 Days	Mayor and CEO
Mayor		CEO	Stage 1 2 Days	Deputy Mayor with MAV assistance if appropriate
Mayor		Director	Stage 1 2 Days	Deputy Mayor and CEO



A 'Dispute Resolution Management Checklist' has been developed to facilitate the documentation and process flow of a conflict from initiation to final resolution.

Each stage of the dispute management and resolution process is to be documented and signed by the participants. Failure of a participant to sign the outcome of each stage will automatically trigger the next escalation in the process.

The document will be provided to the relevant parties in conflict, Mayor and/or CEO and/or Deputy Mayor (refer to the Matrix Diagram 1), independent Mediator, Arbiter (if appropriate), Principal Councillor Conduct Registrar (if appropriate) and to Councillor Conduct Panel members, as matters escalate through each stage.

Rules of Engagement

All parties to a conflict are required to follow the rules of engagement to ensure the earliest possible resolution, thereby minimising the potential negative impacts of an extended conflict. To this end the rules require:

1. All parties agree to fully understand the issue from the other person's perspective prior to discussing a resolution;
2. All parties agree to make a genuine effort to resolve the conflict at the earliest possible stage and at the earliest possible time. There is a pre-agreed time to make decisions at each stage. Extra time required to seek information, with a time allowance set, needs to be agreed by both parties;
3. All parties agree to seek advice from others to assist in resolving the matter, if appropriate. CEO approval is required if there is officer involvement. The relevant officer(s) has the right to agree or disagree to be involved in the matter as they deem fit.
4. All parties agree not to place pressure on other people to be involved in a matter.
5. All parties agree if a resolution cannot be reached internally within Stage 1 and Stage 2, the Mayor through the CEO (depending on the nature of the matter) can engage an appropriately skilled Mediator to assist the parties to reach a resolution. If a mutually acceptable outcome cannot be reached through a Mediator then the Mayor may engage an Arbiter to arbitrate the matter as a further stage. The details of their findings and recommended actions, including sanctions if appropriate, will be provided to Council for its consideration.

The Mayor may refer more serious matters that are a potential breach of the Councillor Conduct Principles or the Act to the Principal Councillor Conduct Registrar or the Minister, as relevant.

6. All parties agree that once decisions are made they will accept the outcome, undertake the action(s) determined and move forward without returning to the conflict.



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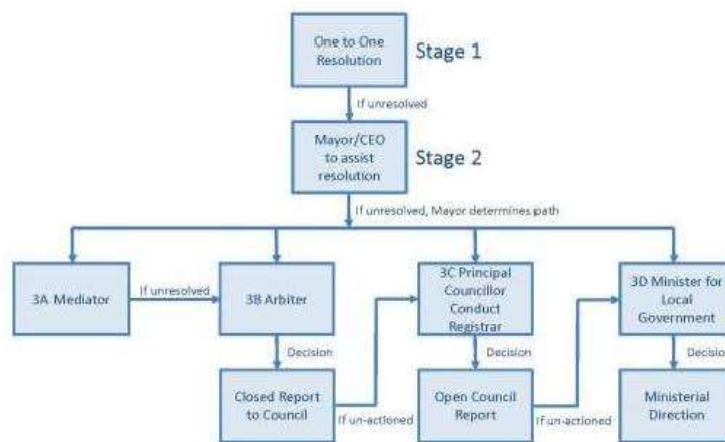
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7. All parties agree that if the Internal Dispute Resolution process fails, then the Mayor, CEO and/or Council can utilise the Councillor Code of Conduct and relevant legislation to resolve the matter.

Dispute Resolution Stages

Dispute Resolution Process Flowchart



Stage 1: Parties meet together to resolve conflict (2 days)

Before commencing any formal dispute resolution process for a conflict, the parties will endeavour to resolve their differences in a courteous and respectful manner between themselves.

The CEO is to be included if the conflict is between a Councillor and Director.

The parties will meet in a mutually agreed neutral and relatively private location to discuss the concerns raised by the Applicant. In initiating the matter, the Applicant is asked to commence the preparation of a Dispute Resolution Management Checklist and complete the first stage in consultation with the Respondent so that both parties' views and opinions are captured. This can either be a hand written document, or an electronic document that both parties have a copy of.



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The Dispute Resolution Management Checklist is to be used to capture the issues and concerns from both parties' perspectives and every attempt needs to be made by the parties to understand the views and opinions of the other party. As far as possible, both parties need to demonstrate their willingness to listen and to find compromises to resolve the issue.

If the issues have been resolved mutually, then both parties are required to action any agreement reached within the shortest possible time. Both parties can retain a copy of the Dispute Resolution Management Checklist for their own personal records. At this stage a copy is not required to be maintained by the organisation.

At the end of the discussion, if there are unresolved issues that both parties do not believe can be resolved mutually without the involvement of others, then the applicant is to take the lead and approach the Mayor to escalate the matter to the second stage.

Stage 2: 1st Escalation - Parties meet together with Mayor and/or CEO (refer diagram 1) to resolve conflict (1 week)

Where issues have not been resolved mutually between the parties in Stage 1, the Mayor (or Deputy Mayor – refer to the diagram 1), and/or CEO (MAV – refer to the Matrix if the matter involves the CEO), will arrange a meeting at the earliest possible time with the parties. This meeting is to be held in either the Mayor's or CEO's office or if the Mayor or CEO is one of the parties then in a mutually agreed neutral location where the parties will not be disturbed.

The Mayor and CEO will be involved in this stage if the conflict is between a Councillor and Director.

The Applicant is to provide a copy of the Dispute Resolution Management Checklist to the Mayor/CEO who will review the contents and confirm with both parties that this is a true reflection of the current status of the matter.

The Mayor/CEO will then work through the series of questions and topics outlined in Stage 2 of the Checklist to get to the underlying issues, allowing each party an opportunity to speak without interruption from the other party, to determine if the context for the conflict has arisen due to:

1. A political difference of opinion; and/or
2. A behavioural conduct/values/ethical difference of opinion; and/or
3. An allegation of a breach of the Councillor Code of Conduct or Councillor Conduct Principles; and/or
4. A difference of opinion or interpretation about legislation; and/or
5. A bullying or harassment concern; and/or
6. Any other reason.

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If required the Mayor/CEO may suspend the meeting so that relevant information can be gathered to determine the factual basis relevant to the matter. As far as practicable the Applicant and Respondent are required to undertake the research to gather the relevant documentation and provide an electronic copy to the Mayor/CEO the other party and keep a copy for themselves. The CEO/Councillors' Executive Assistant can assist in retrieving relevant internal documentation.

The Mayor/CEO will adjudicate where necessary to determine what the interpretation of Council's decision, legislation, Local Law or Councillor Code of Conduct provision means. This interpretation is to be documented with the Checklist and used as the basis for resolving outstanding issues. If deemed necessary the Mayor/CEO can suspend the meeting for such time as required to seek a legal opinion before determining their interpretation.

If the issues have been resolved mutually, then both parties are required to action any agreement reached within the shortest possible time. Both parties can retain a copy of the Dispute Resolution Management Checklist for their own personal records covering Stage 1 and 2. At this stage a copy is to be placed on the parties' personal files by the Executive Assistant to the CEO and Mayor.

The Mayor/CEO will retain a copy of the Checklist as a reference to check in a week, a month and at three months post meeting to ensure the Applicant and the Respondent have both actioned their respective agreed responsibilities.

If either party has not actioned their agreed actions by the end of three months the Mayor/CEO is to call the parties together to discuss why the agreement has not been honoured and what is required to deal with this inaction. This may warrant escalating the matter to Stage 3.

At the end of the Stage 2 discussion, if there are unresolved issues which both parties believe cannot be resolved mutually then the Mayor, with assistance from the CEO if required, will determine which path the matter should escalate to for the third stage. There are four paths that may be taken at Stage 3. It is important for the Mayor to determine the most appropriate path given the main issues of the matter:

- a Stage 3A – A Mediator to be appointed if the matter relates to an interpersonal conflict; or
- b Stage 3B – An independent Arbiter to be appointed to arbitrate if the matter relates to an allegation of a breach of the Councillor Code of Conduct; or
- c Stage 3C – The complaint is to be lodged with the Principal Councillor Conduct Registrar to establish a Councillor Conduct Panel if the matter relates to breaches of the Councillor Conduct Principles (misconduct); or
- d Stage 3D – The Minister for Local Government or Local Government Investigations and Compliance Inspectorate ("the Inspectorate") is to be asked to investigate if the matter relates to possible offences under the Act, potential breaches of the Act, or allegations of misconduct, serious misconduct or gross misconduct by a Councillor that may require investigation.



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Stage 3A: 2nd Escalation - Parties involved meet with an independent Mediator to resolve the conflict (2 weeks)

The CEO will arrange for an independent trained Mediator in the event of an unresolved interpersonal conflict escalating to Stage 3. The Mediator will preferably have a detailed knowledge of the Local Government Act and/or senior level local government and/or Councillor experience in order to be nominated and appointed. It is preferable to seek the parties' agreement of the nominee prior to appointment. The MAV may be able to assist in recommending a suitable nominee.

A suitable meeting room, with a separate waiting area, is to be arranged for the mediated session.

The Mayor/CEO is to provide a copy of the Dispute Resolution Management Checklist along with any supporting documentation compiled thus far to the Mediator along with a copy of the current Councillor Code of Conduct.

The Mediator is required to continue the completion of the Dispute Resolution Management Checklist. The completed Checklist is to be updated and returned to the Mayor/CEO at the end of this stage. The Mediator can include relevant parts from the Checklist in the Mediator's 'Outcome Report' to assist in articulating the actions agreed by both parties.

The Mediator will review the contents of the Checklist and confirm with both parties at the start of the mediation that this is a true reflection of the current status of the matter.

If deemed relevant given the specifics of the case, the Mediator can decide to either meet individually with the Applicant first and then the Respondent to gain an initial understanding of the issue from each perspective OR meet with both parties together so that both parties are present during all conversations.

The main mediation, including hearing the issues, requires both parties to be present in the room.

The Mediator will generally first seek the views of the Applicant on the outstanding issues and/or on any of the previous actions that were agreed to but not undertaken by one or both parties.

The Mediator will generally then seek a response from the Respondent on their views of the outstanding issues and/or on any of the previous actions that were agreed to but not undertaken by one or both parties.

The Mediator will seek reasons for non-completion of agreed actions from the relevant party(s).

The Mediator will seek compromises each party is willing to make to resolve outstanding issues and these will be discussed to determine if any further agreements can be found. These will be documented in an 'Outcome Report' and the updated Checklist provided to the Mayor and parties to the matter, indicating that the parties have endeavoured to resolve the issues.



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If at the end of the mediation session the parties have failed to reach a resolution, then the Mayor will escalate the matter to Stage 3B requiring an Arbiter to be appointed to arbitrate the matter and report their findings to Council.

The Mayor may ask the CEO to obtain legal advice at this point to determine the seriousness of the allegations and potential extent of a breach of the Councillor Code of Conduct and/or Councillor Conduct Principles to determine whether the matter should follow through to Stage 3B, or progress directly to Stage 3C or 3D.

Stage 3B: 2nd Escalation - Parties involved meet with an independent Arbiter for arbitration on the conflict (2 weeks)

The CEO will arrange for an independent Arbiter in the event of an unresolved interpersonal conflict escalating to Stage 3B. The Arbiter must have a detailed knowledge of the Act and/or senior level local government and/or Councillor experience in order to be nominated and appointed. The MAV may be able to assist in recommending a suitably qualified nominee.

The Act (Section 81AA) provides for the independent Arbiter to arbitrate the matter fairly and without bias. Therefore this individual has powers under the Act to hear, consider and provide findings for Council and the parties.

The Arbiter can determine if the Checklist prepared thus far is required, or if the Arbiter prefers to hear the matter without this information. The Arbiter can request other information such as the Councillor Code of Conduct or other Council Policies as deemed relevant to assist the review of the matter.

The Arbiter must have both parties present in the room for any matters discussed. This includes the hearing and presentation of any evidence from both parties. The parties need to ensure they have relevant evidence ready and labelled for the session with exact copies for each person present.

The Arbiter will consider allegations of contraventions of the Councillor Code of Conduct by a Councillor. The behaviour of both the Applicant and Respondent are to be considered, as it is possible the behaviour of one may have contributed to the behaviour of the other resulting in potential breaches by one or both Councillors.

The Arbiter will, where appropriate, review the Mayor/CEO's interpretation of a Council decision, legislation, Councillor Code of Conduct or Council Policy (including any legal opinion obtained), if this remains an unresolved issue of conflict. The Arbiter may uphold or amend the interpretation reached by the Mayor/CEO. This decision will be documented in the Findings Report to Council.

The Arbiter will arbitrate on all relevant issues, including the alleged contraventions of the Councillor Code of Conduct. This is, where practicable, to be completed within a *two week period* following the meeting, with the written Findings Report sent as an electronic document to the Mayor and CEO by the end of the second week.



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Written reasons for the findings are to be documented in the Findings Report. The Report needs to address any matters or provisions prescribed under Section 81AA.

The Council and the Councillors party to the matter will be given the written reasons for any findings and recommendations made by the Arbiter. These will be provided through the Mayor and CEO to both parties, at the same time. Refer to '*Consideration of the Arbiter's Findings Report*' below for details of this part of the process

The Arbiter is to provide an electronic copy of the Findings Report to the Mayor and CEO.

Consideration of the Arbiter's Findings Report

The Mayor and CEO will hold a preliminary meeting with the parties involved in the matter, to provide them with a copy of the Arbiter's 'Report'. This meeting will be held prior to a Confidential Councillor and CEO Only Briefing Paper containing the Arbiter's report being distributed to all Councillors.

If the 'Report' involves directions toward a Council Officer, the CEO will deal with these sections of the report internally according to the Staff Grievance Procedure.

If the 'Report' contains recommendations regarding the CEO, these are to be referred to the CEO Review Committee, with a meeting of the Committee to be called as soon as practicable after the Confidential Council Briefing. This Committee is to deal with any findings with the CEO. The Committee Chair can report back on the outcome at the next appropriate Councillor Only session.

At the preliminary meeting the Mayor will advise the parties that the full 'Report' will be distributed as a Confidential Briefing Paper to all Councillors and will be the subject of a Confidential Report to Council for the Arbiter report at the next appropriate meeting.

The CEO under the direction of the Mayor will arrange a Confidential Council Briefing requiring the mandatory attendance of all Councillors. This will be held at the next appropriate briefing day at a time when all Councillors can be present.

The Confidential Councillor Briefing will be used to consider the Arbiter's findings and recommendations in relation to Councillors only, prior to the 'Report' being presented to Council.

Councillors that are a party to the matter are taken to not have a conflict of interest under Sections 79C (1)(f) and (j)(i and ii) of the Act when matters are considered at Council briefings and meetings.



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At the Confidential Councillor Briefing and subsequently at the Council Meeting, Council will need to consider the Arbiter's findings and recommendations to determine if sanctions for contravention of the Councillor Code of Conduct under Section 81AB of the Act are to be applied as follows:

- "(1) If, after an internal resolution procedure has been conducted, it is found that a Councillor has contravened the Councillor Code of Conduct, the Council may give any or all of the following written directions to the Councillor—*
- (a) direct the Councillor to make an apology in a form or manner specified by the Council;*
 - (b) direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Council;*
 - (c) direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by the Council, the Councillor—*
 - (i) be removed from any position where the Councillor represents the Council; and*
 - (ii) 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.*
- (2) A direction given under subsection (1)(b) must be in respect of the next scheduled meetings of the Council after the direction is made."*

The CEO (or the Director Corporate & Community Services if the matter involves the CEO) will prepare a Confidential Council Report to consider the Arbiter's findings and (where appropriate) recommendations at the next appropriate Council Meeting for Council.

It is for Council to determine what, if any, sanction is to be applied in respect of a Councillor who is found (by the Arbiter) to have breached the Councillor Code of Conduct. These sanctions are aimed at ensuring Councillors know the consequences of their actions in breaching the standards of behaviour that they, as Councillors, have adopted. This framework requires Council to take the findings seriously, without bias and assume responsibility for resolving behavioural and conduct issues occurring within the Council.

The Council Resolution(s) must include specific requirements of a Councillor where sanctions are imposed on an individual, so that there can be no misunderstanding of what must take place, where, by when and by whom. For example, a draft written apology is to be provided to the Mayor for checking and, once approved, read out by the Councillor (Name) at the commencement of the next Council Meeting they attend, or Councillor (Name) is not to attend any Council briefings, meetings or appointed Committee meetings between the dates of ____ and ____.

It is recommended that the resolutions are made public to avoid difficult responses to explain a Councillor's absence or apology; however the Arbiter's Findings Report is recommended to remain confidential.



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A Councillor who has had sanctions imposed on them must comply with those sanctions in accordance with the resolution of Council.

A copy of the Arbiter's report and any Council resolutions will be placed on the relevant parties' personal file by the Executive Assistant to the CEO and Mayor.

Stage 3C: 2nd Escalation – The matter is to be referred to the Principal Councillor Conduct Registrar within 2 weeks.

This stage is to be managed in accordance with the legislative requirements and associated guidelines. It assumes that Council has by resolution determined to apply for the establishment of a Councillor Conduct Panel and that a Councillor has been appointed as Council's representative.

The Mayor is to prepare a cover (introductory) letter outlining Council's actions to date in resolving the dispute between Councillors and requesting the Registrar to review the case and establish a Councillor Conduct Panel (The Deputy Mayor will prepare the letter if the Mayor is either the Applicant or the Respondent in the case.)

The Councillor representative is required to provide the substance of the case and the allegation of breaches. These are to be provided to the Mayor (Deputy Mayor) for inclusion in the letter to the Registrar. The Mayor (Deputy Mayor) is not considered a party of the dispute unless he/she is either the Applicant or Respondent.

At this stage the Council may be required to appoint a suitably qualified person to act as the Principal Conduct Officer if the resource requirements to fulfil this function are likely to negatively impact the operational functions of the CEO-appointed Principal Conduct Officer (Director Corporate & Community Services). This should be an Open Report to Council.

Council will also need to be advised that a budget will be required to cover the costs associated with a Councillor Conduct Panel Hearing.

The Principal Councillor Conduct Registrar under Section 81C of the Act will examine the application made under Section 81B to determine if a Councillor Conduct Panel Hearing is to be established or if the matter is to be referred back to Council.

Upon the advice of the Registrar, the referral may require Council to commence the process again at any of the stages outlined above. If this occurs, then the process will repeat the stages outlined previously.

If a Councillor Conduct Panel Hearing is established then the requirements set out in Part 4 Division 1B of the Act will commence and be followed through to its determined end.

Once received, the Councillor Conduct Panel Report will follow the process outlined below under the *'Consideration of the Councillor Conduct Panel's Report'*.



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As far as practicable, Officers should not be involved in the matter. If their involvement is required, permission is required from the CEO to approach staff. An Officer retains the right to refuse to be involved.

If a Councillor or other party chooses to appeal the Councillor Conduct Panel findings to VCAT, the relevant Act requires each party to bear all their own costs (refer Division 8, Section 109 (1) of the Victorian Civil and Administrative Tribunal Act 1998 – "the VCAT Act").

A party appealing to VCAT is required to clarify who the 'respondent(s)' is before submitting the appeal to VCAT. This will ensure the required parties are aware of the appeal and involved in the process. The Principal Conduct Officer is not a party to the matter, but may provide Councillor Conduct Panel documentation to VCAT.

Despite Section 109 of the VCAT Act, Council must bear the costs of proceedings if Council applies to VCAT for a review under Section 81Q(2) of the Local Government Act, unless VCAT otherwise orders (refer Schedule 1 Part 13 – Local Government Act Section 46F(1) and (2) of the VCAT Act).

Consideration of the Councillor Conduct Panel's Report

The Councillor Conduct Panel Report will be provided to the Principal Conduct Officer for distribution to the parties to the Panel Hearing and to Council. A copy is to be tabled and included in the Minutes of the next Ordinary Council Meeting. This may require it to be included as Urgent Business. A copy must also be sent to the Minister for Local Government.

Upon receipt of the report, the Principal Conduct Officer will notify the Applicant(s) and Respondent the report has been received and send them a copy by email.

The Principal Conduct Officer will then send a copy of the report to all Councillors advising them that the report will be tabled at the next Ordinary Council Meeting. Where practicable the Applicant and Respondent will receive the Report the day before all other Councillors. A copy will also be provided to the CEO at this time.

The Councillor Conduct Panel Report is to be treated as Confidential through to the release of the full or part report at the next Ordinary Council Meeting.

The Principal Conduct Officer will prepare an Open Council Report, for Council to receive and note the Councillor Conduct Panel's decision, at the next Ordinary Council Meeting. As much of the Councillor Conduct Panel Report as practicable should be included as an open attachment, while sections that may include names of third parties (such as witnesses) are to be included in a Confidential Appendix. Redaction of names of third parties may also be required in the Open Attachment.

Councillors that are a party to the matter are taken to not have a conflict of interest under Section 79C (1)(j)(i and ii) of the Act and therefore are able to be in attendance for the Agenda item dealing with the Councillor Conduct Panel Report.



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Council and/or Councillors in the Councillor Conduct Panel Report are required to give effect to any directions and orders relevant to them in the Councillor Conduct Panel's decision.

Stage 3D: 2nd Escalation – The matter is to be referred to the Minister for Local Government within 2 weeks.

The Mayor (or Deputy Mayor if the Mayor is a party to the matter) and CEO will hold an initial discussion with the Minister for Local Government or the Inspectorate to highlight the conflict and seek the Minister's instruction on the process required to lodge a request for an investigation into an alleged breach or offence under the Local Government Act.

If the CEO is a party to the matter the Mayor is contact the Minister or the Inspectorate directly and manage the process through with the assistance of the Manager of People and Culture.

Depending on the nature of the matter the Minister for Local Government may either manage the investigation through a Municipal Monitor or refer the matter to the Integrity Minister responsible for administering Section 223A of the Act who would appoint a Chief Municipal Inspector to investigate the matter.

Following the discussion with the Minister or the Inspectorate, the Mayor (through the CEO) will formalise the request in writing to the Minister for Local Government.

The Minister is able to use his/her powers under the Act to investigate and monitor Council and Councillor behaviour. The approach taken by the Minister will be at their discretion.

Council will be required under Section 223A(5) of the Act to meet the costs of a Municipal Monitor.

Under the Act the Minister for Local Government utilising either a Municipal Monitor or Chief Municipal Inspector, is able to direct Council, stand down a Councillor or suspend Council.



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Stage 4A: 3rd Escalation - Matter Referred For A Councillor Conduct Panel Hearing – Failure of Stages 3A and/or 3B

If a Councillor fails to comply with Council's directions, the CEO, on the advice of the Mayor (or Deputy Mayor if the Mayor is a party to the matter), is to prepare a further Confidential Council Report, recommending the alleged Councillor's misconduct or serious misconduct of the Councillor Code of Conduct be the subject of an application to the Principal Councillor Conduct Registrar seeking a Councillor Conduct Panel Hearing for the matter in accordance with Section 81 B (1A)(a) of the Act.

Council may be required to appoint a suitably qualified person to act as the Principal Conduct Officer if the resource requirements to fulfil this function are likely to negatively impact the operational functions of the CEO-appointed Principal Conduct Officer (Director Corporate & Community Services).

Council will need to be advised that a budget over-expenditure will be required to cover the costs associated with a Councillor Conduct Panel Hearing.

The process is to follow the requirements set out in 3C.

Stage 4B: 4th Escalation - Dispute is referred to the Minister for Local Government – Failure of Stage 3C and/or 4A

If a Councillor fails to comply with the Councillor Conduct Panel's directions within a month after the Councillor Conduct Panel Report being presented to Council, the Mayor is to meet with the Councillor and provide a first warning that a failure to comply will lead to an alleged breach of the Act.

The Mayor is to provide a further period for the Councillor to comply. If at the end of the period the Councillor has not taken action to comply, the Mayor is to meet with the Councillor and advise him/her that a letter will now be sent to the Minister for Local Government to investigate the non-compliance with the Councillor Conduct Panel's findings.

If the Councillor commences actions to comply, the Mayor is to regularly monitor (perhaps fortnightly) that the Councillor is complying as required. If the Councillor ceases to comply, then the warning meeting will be repeated.

If the Councillor fails to comply following the warning, the Mayor, with the assistance of the CEO, is to contact the Minister for Local Government to notify him/her of the alleged breach. This should follow the approach outlined in Stage 3D.



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DISPUTE RESOLUTION MANAGEMENT CHECKLIST

The Dispute Resolution Management Checklist is to be used at each stage of conflict management escalation, to identify the issues that have led to a conflict, the viewpoints of the parties involved in the matter and the actions agreed toward resolving it.

The parties involved at each stage are asked to sign the document.

Applicant Name, Title and Contact Details	
Respondent Name, Title and Contact Details	
Date Matter Initiated	
Running Log Stages and Status Timeline - dates meetings held and status at the end of meeting.	Status
Stage 1	
Stage 2	
Stage 3	
Stage 4	

STAGE 1

Applicant to complete:

What the problem is for me:	Reason it is a concern to me:
Example of the behaviour or action that is a concern:	Timing/Currency – when this behaviour or action occurred:
How I think the problem can be resolved	



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Respondent to complete:

Factors that I believe have contributed to the situation:	Reason these are a concern to me:
Example of the behaviour or action that have contributed to the situation:	Timing/Currency – when this behaviour or action occurred:
How I think the problem can be resolved	

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Applicant and Respondent to complete at the end of the meeting :

Areas of common ground reached	Issue(s) remaining in dispute (if any)
Applicant actions agreed to maintain the common ground including time lines	Status of remaining issues – Select 1) Issue resolution requires escalation to Stage 2.
Respondent actions agreed to maintain the common ground including time lines	

Applicant Signature _____ Date _____

Respondent Signature _____ Date _____

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STAGE 2

Documentation from Stage 1 to be carried forward into Stage 2

Mayor / CEO to complete in discussion with Applicant and Respondent

The outstanding issues from Stage 1 are related to:	If Yes is the response to any of these differing opinions – respond to the corresponding questions to work through the issue
<p>Is this a matter of differing opinions on a contextual/policy matter or a matter before Council?</p> <ul style="list-style-type: none"> - Have these matters been resolved by Council? - If so, what was Council's ruling? - If so, why is Council's decision in question here? - If not, is the matter to come before Council in the near future? - If so, should this issue be resolved as a political debate in the Council Meeting? - If not, is the matter related to a legislative responsibility of Council's? 	
<p>Is this a matter of differing opinions on particular behaviours, values or ethics?</p> <ul style="list-style-type: none"> - Do these behaviours (of both parties) align with, or they contrary to, the requirements of the behaviours in the Councillor Code of Conduct? - If they are contrary to the Councillor Code of Conduct is there a potential breach of the Code? - If so, demonstrate by example what the breach is and its level of significance? 	
<p>Is this a matter of differing opinions on a legislative context?</p> <ul style="list-style-type: none"> - How does the legislation support or vary from the issue and/or matters raised from both parties perspectives? - If they are contrary to the legislation is there a potential breach? - If so, demonstrate by example what the breach is and its level of significance? 	



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Is this a matter of differing opinions on bullying or harassing behaviour? - Have the actions of one contributed to the actions of another? How? - If so, demonstrate by example what the inappropriate behaviours are? (Consider both parties behaviours) - Do the issues and examples constitute 'bullying' or 'harassing' behaviour as defined by the Health and Wellbeing Act and Council's OH&S Policy? - If so, specify the behaviour changes required by one or both parties.	
Does the conflict have any other basis requiring identification and clarification?	

COUNCIL POLICY

Applicant and Respondent to complete at the end of the meeting:

Areas of common ground reached from Stages 1 and 2:	Issue(s) remaining in dispute (if any):
Applicant actions agreed to maintain the common ground including time lines from Stages 1 and 2:	Status of remaining issues – Select 1) Issue resolution requires escalation to Stage 3:
Respondent actions agreed to maintain the common ground including time lines from Stages 1 and 2:	

COUNCIL POLICY

Applicant Signature _____ Date _____

Respondent Signature _____ Date _____

Mayor/Deputy Mayor _____ Date _____

CEO _____ Date _____

COUNCIL POLICY



COUNCIL POLICY

COUNCIL POLICY

COUNCIL POLICY

COUNCIL POLICY

STAGE 3

Documentation from Stage 1 and 2 to be carried forward into Stage 3.

Mediator to complete in consultation with the parties:

Applicant's outstanding issues	Specific issue(s) remaining in dispute
Applicants agreed actions completed	Applicants agreed actions not completed and reasons for inaction
Respondent's outstanding issues	Specific issue(s) remaining in dispute
Respondents agreed actions completed	Respondents agreed actions not completed and reasons for inaction

Mediator to hear alleged contraventions of the Councillor Code of Conduct by either party

Relevant Sections of the Code:	Alleged contraventions of the Code against the Applicant:
Relevant Sections of the Code:	Alleged contraventions of the Code against the Respondent:

Mediator to review the Mayor/CEO interpretation of a Council decision, legislation, Local Law No 3 2016, or Councillor Code of Conduct, including any legal opinion available.

(Only required if one of more of these factors remains an outstanding issue)

Applicant's perspective and interpretation
Applicant's perspective and interpretation



Mediator to complete with the parties

COUNCIL POLICY

COUNCIL POLICY

COUNCIL POLICY

COUNCIL POLICY

Areas of common ground reached in Stage 3	Issue(s) remaining in dispute (if any) to be arbitrated by the Mediator.
Applicant actions agreed to maintain the common ground including time lines from Stage 3	
Respondent actions agreed to maintain the common ground including time lines from Stage 3	

Applicant Signature _____ Date _____

Respondent Signature _____ Date _____

Mediator _____ Date _____

Note: remaining stages do not require documentation recorded on this Checklist as they will be dealt with in the Mediator's Finding Report, Council Report(s) and/or Councillor Conduct Panel or Ministerial Reports.

SECTION C - MEETING CLOSED

NEXT MEETING

The next Ordinary Council Meeting open to the public will be held on Wednesday, 25 May 2016 commencing at 2pm in the Council Chamber, Leongatha.

The Meeting closed at 12.35pm.

CONFIRMED:.....

COUNCILLOR ROBERT NEWTON – MAYOR

Date:.....