



# COUNCILLOR CODE OF CONDUCT

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Council Item No.	B.1	Department	Innovation and Council Business
Special Meeting of Council Adoption Date	22 February 2017	Primary Author	Corporate Planning & Council Business Coordinator
Revision Date	February 2021	Secondary Author	Manager Innovation & Council Business

## TABLE OF CONTENTS

**POLICY OBJECTIVE.....2**

Introduction .....2

**COUNCILLORS' COMMITMENT .....3**

**POLICY STATEMENT .....4**

**Roles of Council, Mayors and Councillors.....5**

**Council Decision Making.....8**

**Confidential Information.....9**

**Access To and Use of Council Information .....9**

**Use of Council Resources (Including Funds and Property) .....9**

**Relationships with Staff.....10**

**Gifts .....11**

**Communication .....11**

**Councillor Attendance at Events or Functions.....12**

**Dispute Resolution Procedures .....13**

**Penalties / Sanctions .....13**

**RISK ASSESSMENT .....13**

**IMPLEMENTATION STATEMENT .....14**

**COUNCILLOR DECLARATIONS .....15**

**ATTACHMENT 1 – COUNCILLOR ETHICAL BEHAVIOUR CHECKLIST .....18**

**ATTACHMENT 2 - COUNCILLOR AND EXECUTIVE LEADERSHIP DISPUTE RESOLUTION MATRIX AND PROCESS .....22**

**ATTACHMENT 3 - DISPUTE RESOLUTION MANAGEMENT CHECKLIST .....36**

**ATTACHMENT 4 – CONFLICT OF INTEREST.....42**

**ATTACHMENT 5 - SUPPORTING POLICIES OF COUNCIL.....42**

**ATTACHMENT 6 - LEGISLATIVE PROVISIONS.....43**

**ATTACHMENT 7 - DEFINITIONS.....44**

COUNCIL POLICY

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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 Council as required by Section 76C of the Act.

This Councillor Code of Conduct does not apply to staff. Council staff are bound by the Staff Code of Conduct.

This Councillor Code of Conduct replaces the Councillor Code of Conduct adopted by Council on 15 February 2017. It is adopted, with declarations made by Councillors, in accordance with Section 76C of the Act.

### Introduction

Councillors of Council are committed to working together constructively and respectfully as a team to achieve Council's shared vision for our Shire.

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 Act to the best of their skill and judgment.



## COUNCILLORS' COMMITMENT

As the Councillors, elected to represent the people of South Gippsland Shire, we declare to each other and to our communities that we will abide by this Code of Conduct. In doing so we all agree to:

- Respect our differences and recognise there will be times for us 'to agree to disagree' when we have differing views;
- Listen to each other, to our community and to the staff, so that we can have robust and constructive discussions that will help us make informed and carefully considered decisions;
- Respect the democratic process and accept that the majority decision of Council, once made, becomes the position of Council;
- Acknowledge and work on areas needing improvement, including our own professional development as individuals and as a team;



Standing row left to right: Cr Andrew McEwen, Cr Jeremy Rich, Cr Aaron Brown, Cr Don Hill  
Seated row left to right: Cr Alyson Skinner, Cr Lorraine Brunt, Cr Ray Argento, Cr Maxine Kiel, Cr Meg Edwards

Cr Argento  
 Cr McEwen  
 Cr Brown  
 Cr Skinner  
 Cr Edwards

Cr Kiel  
 Cr Rich  
 Cr Hill  
 Cr Brunt



## POLICY STATEMENT

### Core Values & Behaviours

As Councillors, we declare our commitment to demonstrating united leadership with the following core values and behaviours underpinning what we say and do:

- a) We value the contribution made by everyone; we will actively listen to you and to each other;
- b) We value the uniqueness of individuals and the diversity each person brings; we will act with respect and kindness in our interactions with each other and with you, never seeking to undermine, mislead or undervalue anyone;
- c) We value opportunities that can come from change; we will keep our focus on the future and our responses flexible for a constantly changing world;
- d) We value community spirit and the vibrancy and unique character of each of our towns and rural areas; we will encourage our communities, whilst supporting our community leaders, to develop their own self-sufficiency and realisation of shared dreams and visions;
- e) We value the depth and breadth of creative thinking and the outcomes that can be achieved from working closely with our community, businesses, supporting agencies, government agencies and councils; we will embrace and encourage community engagement, work collaboratively with others and establish partnerships that benefit our communities and the wider region;
- f) We value our reputation in the community and the region, and acknowledge that we are the guardians of community information; we will respect the trust placed in us by seeking to be as open and transparent in our decision making as the law allows, to help the community understand the decisions Council makes;
- g) We value constructive criticism that will help us understand how and where we need to improve; we will proactively reflect on our behaviour, that of each other and of the organisation as a whole, to continually build capacity, passion and success of this Council.

These values and behaviours are reflected in the Council Plan 2017-2021.



## 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 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;
  - 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, exercising 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).
- 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 2) (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 and 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 group 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 Councillor's 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 of the Act, including but not limited to (refer to Section 65 (3) and Part 4 Division 3 of the Act):
- a. Implementing Council actions;
  - b. Managing or disciplining staff;
  - c. Influencing or giving directions to staff in the exercise of their power, functions and duties; and
  - d. Using their position to seek information for gain or to cause detriment.

Councillors who seek to improperly direct a member of Council staff in the exercise of their powers, functions or 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 their responsibilities in the interests of the local community;
- 3 Not improperly seek to confer an advantage or disadvantage on themselves or any other 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 their public duties as a Councillor and their 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 themselves to the lawful scrutiny that is appropriate to their office;
- 9 Endeavour to ensure that public resources are used prudently and solely in the public interest;
- 10 Act lawfully and in accordance with the trust placed in them elected representatives; 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.

### **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 while accepting 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 Accept that a decision, once made, is the policy position of Council and Councillors will share independent views in accordance with the values and behaviours agreed to in this Code.





## **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;
2. Respecting and following the Council's policies in relation to public comments and communications with the media;
3. 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;
4. Recognising the requirements of the Privacy and Data Protection Act 2014 regarding the access, use and release of personal information;
5. Councillors will not make recordings of closed briefing sessions without the express permission of a majority of Councillors present at the closed briefing session, or personal conversations with fellow Councillors or staff without their express permission, with permission having been sought and obtained at least 1 hour ahead of any recorded personal conversation; and
6. Councillors support the requirement that all requests made by Councillors for briefings from Council staff or access to information on Council files will be made through the Director responsible for the relevant business unit.

## **Use of Council Resources (Including Funds and Property)**

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

- 1 maintain adequate security over Council property, facilities and resources provided to them to assist in the performance of their role;
- 2 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 not use public funds or resources in a manner that is improper or unauthorised; and
- 4 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'.



## Relationships with Staff

To ensure productive, cooperative and respectful relationships with Council staff, Councillors recognise the following:

- 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 staff 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 staffing matters;
- 3 Councillors understand the requirements of Section 76E of the Act and agree they will 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;
- 4 Assemblies of Councillors, established as regular briefing days and/or workshops with Councillors and relevant staff, including the Executive Leadership Team, will be the general forums whereby Councillors lead the formation of policy, with good governance practices in place to manage them. Information sharing can occur by asking questions, providing comments, advice, sharing information and seeking understanding of a range of issues between staff and Councillors.

These Assemblies of Councillors are not a decision making forum and staff are not to be inappropriately instructed or directed by Councillors. Councillors can provide staff with a general sense of approaches that the Council would be interested in considering in further detail. A summary of the topics discussed and any conflicts of interest disclosed will be provided in reports to each Ordinary Council meeting to provide a level of transparency to matters discussed at these sessions; and

- 5 Any Councillor requests for information from staff for Councillor Conduct matters are to be directed through the CEO in accordance with the 'Councillor Access to Council Information Policy'.



## 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.

Note a token value equates to \$60 or less, including cumulative value gained from numerous offerings from the same source within a financial year.

## 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 and shared in accordance with the values, behaviours and commitments agreed to in this Code. To assist Councillors to demonstrate united leadership the following protocols apply:

- 1 The Mayor will provide official comment to the media on behalf of Council including in respect of:
  - 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; and
  - d Issues relating to the strategic direction of the Council,

Although the Mayor may authorise the Deputy Mayor, Councillor appointed to a committee or other Councillor to make official comment on behalf of Council from time to time, 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 such comments reflect a personal view, and not represent the position of the Council and that the information is given in accordance with the values and behaviours agreed to in this Code.
    - a 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 the subject of a decision of Council.

### **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 person 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 on these committees and external bodies among all Councillors, to ensure a manageable workload;
  - 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 or event, the Councillor, where possible, will 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 to act in ways that may damage the Council or its reputation or commit Council to an action that has not been the subject of 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 2.

Councillors agree to exhaust the internal process steps 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 to establish a Councillor Conduct Panel.

All communications relating to the provision of Arbiter and/or Councillor Conduct Panel findings and recommendations will be designated as Confidential Information pursuant to section 77(2)(c) of the Act until such time (if any) as a report and recommendation(s) are presented in an Agenda to an Ordinary Council meeting.

## **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 with 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 to individuals and/or to Council.



## **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 Requiring all Councillors to sign the adopted Councillor Code of Conduct and a declaration to abide by it in accordance with the Act. This will be captured as a permanent record. A Councillor failing to sign the Councillor Code of Conduct and make the necessary declaration in accordance with the Act will vacate their seat.
- 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 having 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 processes and procedures outlined in the attachments of the Councillor Code of Conduct when required.



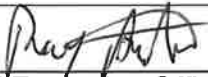

## COUNCILLOR DECLARATIONS

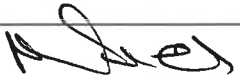
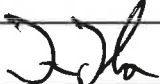
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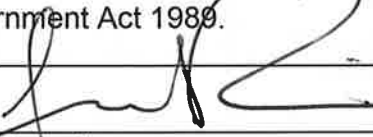

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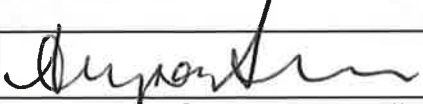

COUNCIL POLICY

COUNCIL POLICY

I, Cr Ray Argento, Mayor, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989.			
Signature		Date:	22/02/17
Witness Chief Executive Officer Tim Tamlin			
Signature		Date:	22/02/17

I, Cr Maxine Kiel, Deputy Mayor, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989.			
Signature		Date:	22/2/17
Witness Chief Executive Officer Tim Tamlin			
Signature		Date:	22/2/17

I, Cr Jeremy Rich, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989.			
Signature		Date:	22/2/17
Witness Chief Executive Officer Tim Tamlin			
Signature		Date:	22/2/17

I, Cr Alyson Skinner, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989.			
Signature		Date:	22/02/2017
Witness Chief Executive Officer Tim Tamlin			
Signature		Date:	22/2/17



I, Cr Aaron Brown, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989.

Signature		Date:	22/02/17
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Witness Chief Executive Officer Tim Tamlin

Signature		Date:	22/2/17
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I, Cr Lorraine Brunt, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989..

Signature		Date:	22/02/2017
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Witness Chief Executive Officer Tim Tamlin

Signature		Date:	22/2/2017
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I, Cr Andrew McEwen, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989.

Signature		Date:	22/2/2017
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Witness Chief Executive Officer Tim Tamlin

Signature		Date:	22/2/17
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I, Cr Meg Edwards, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989.

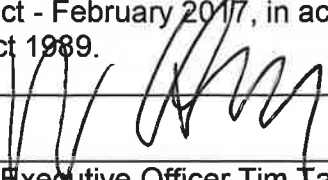
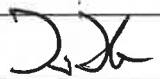
Signature		Date:	22/2/17.
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Witness Chief Executive Officer Tim Tamlin

Signature		Date:	22/2/17
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I, Cr Don Hill, declare that I have read, understand and will abide by the Councillor Code of Conduct - February 2017, in accordance with Section 76C(6A) of the Local Government Act 1989.			
Signature		Date:	22/2/17
Witness Chief Executive Officer Tim Tamlin			
Signature		Date:	22/2/17



## ATTACHMENT 1 – COUNCILLOR ETHICAL BEHAVIOUR CHECKLIST

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>
<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>



Conduct Requirements	Acceptable Behaviour Outcomes	Unacceptable Behaviour Outcomes
<p>I have actively listened to the views and opinions of Councillors, staff and community members to clearly demonstrate to them my interest in what they have to say.</p> <p><i>I have actively shown my interest in matters being discussed or presented.</i></p>	<p>People leave feeling that all Councillors have been 'present' in the room and not distracted by other things and 'attentive' by actively listening with regular eye contact to all people as they speak.</p>	<p>People leave feeling they have wasted their time in presenting their views due to inattentive or distracted Councillors.</p>
<p><i>Check list question:</i></p>	<p><i>Have my actions, words, or behaviours at this briefing, public presentation or meeting clearly demonstrated that have I proactively listened to the views and opinions of others?</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/or 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, because I am personally not interested in the matter or I have chosen</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>



Conduct Requirements	Acceptable Behaviour Outcomes	Unacceptable Behaviour Outcomes
	<i>to pursue other personal interests, thereby diminishing my ability to make an informed decision?</i>	
<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 maintained (or 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>Community members comment positively about the unity they see within Council.</p> <p>Responses to the Annual Community Satisfaction Survey question for Council Decision Making improve.</p>	<p>People leave feeling anxious and discouraged that Council lacks direction and is not focusing on the future.</p> <p>People voice their concerns that a Councillor(s) doesn't reflect the values and behaviours agreed to in this Code.</p> <p>Community satisfaction in Council Decision Making continues to be raised as a concern in the Annual Community Satisfaction Survey.</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 so that my actions withstand public scrutiny?</i></p>	<p><i>Would I be subject to ridicule if something I said, did or wrote ended up negatively represented on the front page of a newspaper or the TV</i></p>



Conduct Requirements	Acceptable Behaviour Outcomes	Unacceptable Behaviour Outcomes
	<i>Have I satisfactorily articulated my understanding of both sides of the matter?</i>	<i>newscast?</i>  <i>Have I harmed or detrimentally impacted on others as a result?</i>
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 and truthfulness?</i>



## ATTACHMENT 2 - 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 As soon as possible after the concern arises (aim within 2 days)	Mayor
Councillor	Mayor		Stage 1 As soon as possible after the concern arises (aim within 1 Week)	Deputy Mayor and CEO MAV assistance if required
Councillor		CEO	Stage 1 As soon as possible after the concern arises (aim within 2 Days)	Mayor and MAV assistance if appropriate



Councillor		Director	Stage 1 As soon as possible after the concern arises (aim within 2 Days)	Mayor and CEO
Mayor		CEO	Stage 1 As soon as possible after the concern arises (aim within 2 Days)	Deputy Mayor with MAV assistance if appropriate
Mayor		Director	Stage 1 As soon as possible after the concern arises (aim within 2 Days)	Deputy Mayor and CEO

**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 2 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 about 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;



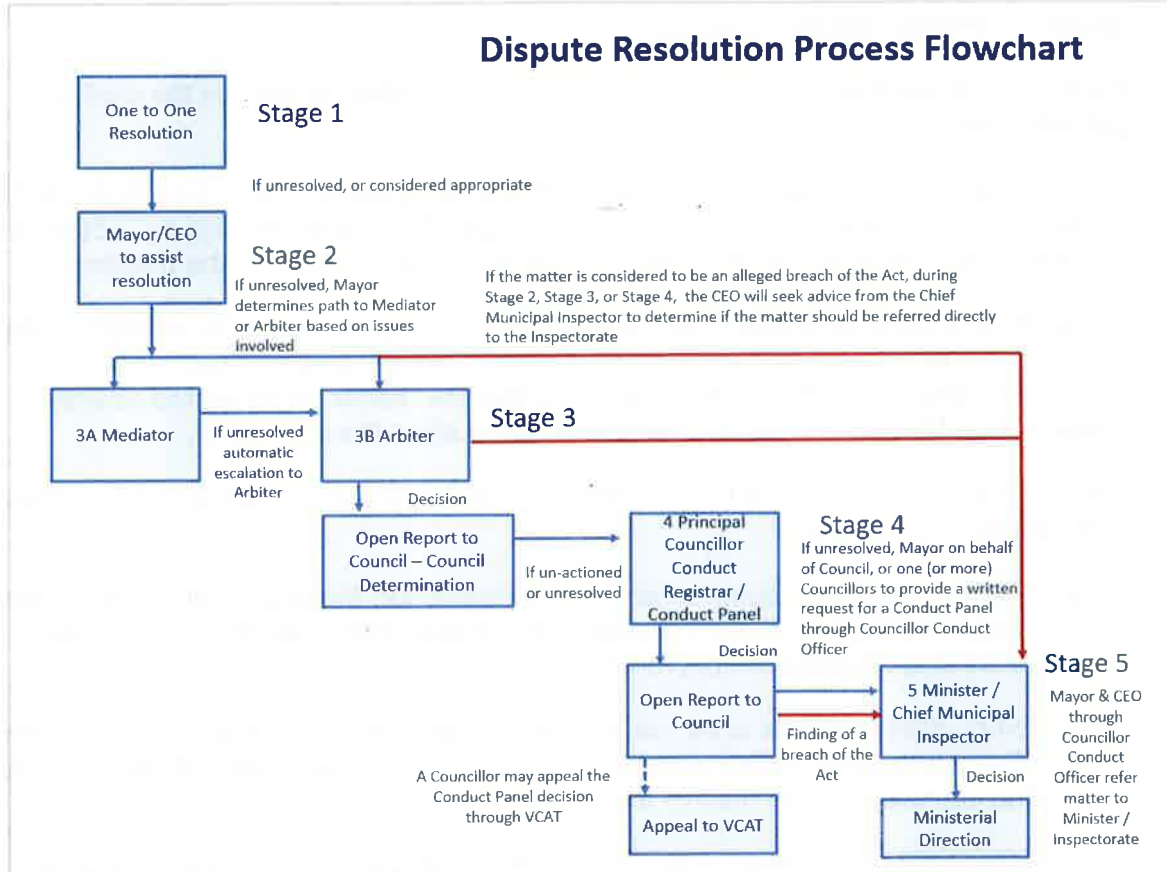
- b Where a staff member has a complaint in respect of a Councillor, the complaint must be made to the CEO who will, if deemed appropriate, discuss the matter with the Mayor. Where the Mayor deems a breach of the Councillor Code of Conduct may have occurred, the Mayor will progress the matter in accordance 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 by 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 about a Councillor and/or Mayor are to be made in legible writing, dated and signed with contact details provided. Anonymous allegations, accusations 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; and
  - 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 about Councillors may be referred include:
  - a The Independent Broad-based Anti-corruption Commission (IBAC); and
  - b The Local Government Investigations and Compliance Inspectorate.





## Dispute Resolution Process

The dispute resolution process contains a series of escalation stages as outlined in the flowchart below:



## Alleged Breaches of the Act

If a matter is raised or portrayed to be an alleged breach of the Act at any Stage in the process, then the CEO, or his/her delegated Officer, will seek advice from the Chief Municipal Inspector's Office to determine if the matter should be referred directly to the Inspectorate.

If this is deemed the appropriate approach, the matter (or part of a matter) will be referred by the CEO, or his/her delegate to the Inspectorate. (Stage 5). The remaining internal escalation stages will not be followed for the referred matter (or part) unless the Inspectorate advises or rules the Council Dispute Resolution Process should be continued. The CEO, or his/her delegate will fully support the Inspectorate in undertaking the investigation. If there are other parts of an allegation that relate solely to an alleged breach of the Code of Conduct these can continue to be addressed via the Council Dispute Resolution Process.

The Mayor and/or CEO can seek legal advice at any stage to assist the management of conflicts and/or allegations of breaches of the Act.



## **Dispute Resolution Process**

### **Stage 1 – Parties resolve conflict**

Parties meet together in a mutually agreed neutral location to resolve the conflict between themselves.

Either party may bring along an independent support person. These people are to be observers; not participants in the discussion. A party intending to bring an independent support person must inform the other party of that intention prior to the meeting.

In exceptional circumstances where a one-on-one meeting, even with an independent support person, is considered inappropriate, the party alleging a breach should discuss the situation with the Mayor seeking that the matter be escalated directly to Stage 2. The Mayor may use his/her discretion to allow the escalation.

The CEO is to be included in any meeting addressing a dispute between a Councillor and Director. In that case:

- a) The complainant prepares the Dispute Resolution Management Checklist and completes Stage 1 in consultation with the respondent so that both parties' views and opinions are captured;
- b) Every attempt needs to be made to understand the views and opinions of the other party. Both parties need to demonstrate their willingness to listen and to find compromises to resolve the issues;
- c) If the issues have been mutually resolved, both parties are required to action any agreement reached within the shortest possible time (up to one month);
- d) Both parties can retain a copy of the Dispute Resolution Management Checklist for their own personal records; and
- e) If both parties do not believe various issues can be resolved between themselves, then the complainant will approach the Mayor to escalate the matter to Stage 2.

### **Stage 2 – Mayor assists resolution of conflict**

Where issues have not been resolved in Stage 1, the Mayor (or Deputy Mayor – if the matter involves the Mayor, and/or the CEO – if the matter involves staff), will arrange a meeting at the earliest possible time with the parties.

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

- a) The Mayor (or CEO where applicable) will review the contents of the Dispute Resolution Checklist and confirm with both parties that this is a true reflection of the current status of the matter;



- b) The Mayor (or CEO where applicable) 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 in which the dispute has arisen involves:
- A political difference of opinion; and/or
  - A behavioural/conduct/values/ethical difference of opinion; and/or
  - An allegation of a breach of the Councillor Code of Conduct or Councillor Conduct Principles; and/or
  - A difference of opinion or interpretation about legislation; and/or
  - A bullying or harassment concern; and/or
  - Any other matters.
- c) The Mayor may suspend the meeting so relevant information can be gathered to determine the factual basis relevant to the matter. As far as practicable the complainant and respondent are required to gather the relevant documentation and provide an electronic copy to the Mayor, the other party and keep a copy for themselves. The CEO/Mayor's Executive Assistant can assist in retrieving relevant internal documentation that Councillors do not have access to;
- d) It is for the Mayor (or CEO where applicable) determine the proper interpretation of any Council decision, legislation, Local Law or Councillor Code of Conduct relevant to the complaint. This interpretation is to be documented with the Checklist and used as the basis for resolving outstanding issues. If deemed necessary the Mayor can suspend the meeting for such time as required to seek a legal opinion before determining any interpretation;
- e) If the issues have been resolved mutually, both parties are required to action any agreement reached within the shortest possible time. Both parties retain a copy of the Dispute Resolution Management Checklist for their own personal records covering Stages 1 and 2 and a copy is to be placed on the parties' personal files by the CEO/Mayor's Executive Assistant;
- f) The Mayor (CEO where applicable) 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 complainant and the respondent have both actioned their respective agreed responsibilities;
- g) If either party has not actioned their agreed actions by the end of three months the Mayor 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;



- h) The Mayor (or CEO where applicable) will determine, based on the matters raised at the end of Stage 2, if the matter should be referred to a Mediator (Stage 3A if the matter relates to an interpersonal conflict), or an Arbitrator (Stage 3B if the matter relates to an alleged breach of the Councillor Code of Conduct); and
- i) The Mayor (or CEO where applicable) may follow the 'Alleged Breaches of the Act', section if all or part of the complaint is considered by the Mayor/CEO to be a potential breach of the Act.

### **Stage 3A – Independent Mediator appointed to resolve interpersonal conflict**

The Mayor (or CEO where applicable), through the Principal Conduct Officer, will appoint an independent Mediator and parties involved will meet with the mediator to work towards a resolution.

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. If a party does not agree to a particular mediator they should advise the Mayor in writing of their reasons within 1 day. The MAV may be able to assist in recommending a suitable nominee.

Once a Mediator is selected:

- a) The Mayor (or CEO where applicable) will provide a copy of the Dispute Resolution Management Checklist and supporting documentation to the Mediator, along with the Councillor Code of Conduct;
- b) 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;
- c) The Mediator can decide to either meet individually with the complainant and then the respondent to understand the issue from each perspective OR meet with both parties together so that both parties are present during all conversations, however the main mediation, including hearing the issues, requires both parties to be present in the room;
- d) 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 towards resolving the dispute can be made;
- e) The Mediator is required to continue the completion of the Dispute Resolution Management Checklist by making a record of all actions agreed by both parties along with timeframes within which they are to be undertaken;



- f) The Mediator will provide the updated Checklist to the parties and to the Mayor (or CEO where applicable). The Mediator will provide a verbal report and, if relevant, a summary report of the proceedings to the Mayor (or CEO where applicable). Both parties are encouraged to sign the checklist. If either party does not agree to sign it, the checklist will still be provided to the Mayor (or CEO where applicable), both parties and placed on the parties' personnel files.
- g) The Mayor (or CEO where applicable) will arrange through the CEO/Mayor's Executive Assistant for a copy to be placed on the parties personal files; and
- h) If Stage 3A fails to resolve the matter to the satisfaction of the parties, Stage 3B will automatically be commenced by the Mayor.

### **Stage 3B – Independent Arbiter appointed to hear, make findings and recommend actions for Council resolution**

The Mayor (or CEO where applicable), through the Principal Conduct Officer, will appoint an independent Arbiter.

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. It is preferable to seek the parties' agreement of the nominee prior to appointment. If a party doesn't agree to a particular Arbiter they should advise the Mayor (or CEO where applicable) in writing of their reasons within 1 day. The MAV may be able to assist in recommending a suitably qualified nominee.

Once an Arbiter has been appointed:

- a) 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;
- b) The parties to the matter will be provided advance notice of the proposed arbitration date in order that the parties can provide written reasons why the proposed meeting date is not suitable, to allow for a new date as close to the proposed date as possible to be determined.
- c) While it is for the Arbiter to determine the process for the arbitration, it is Council's preference that the Arbiter will have both parties present in the room for any matters discussed, including 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;



- d) Where either party is including evidence from witnesses, the party must advise the witness in writing, in advance of the evidence being provided that:  
*“The witness is not obliged to participate in the proceedings, however if they do participate their name and personal information, including their witness statements, may be included in an open report to Council. No names or details will be redacted.”* This is necessary to ensure compliance with the *Privacy and Data Protection Act 2014*;
- e) The Arbiter will consider allegations of contraventions of the Councillor Code of Conduct by a Councillor. The behaviour of both the complainant and respondent will 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;
- f) The Arbiter will, where appropriate, review the Mayor’s (or CEO’s where applicable) 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 (or CEO where applicable). This decision will be documented in the Findings Report to Council;
- g) 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, but no longer than four week period*, following the meeting with the complainant and respondent;
- h) A copy of the Arbiter’s written Findings Report will be sent directly to the parties to the matter, providing them two days to provide any comment;
- i) Once these comments have been considered by the Arbiter, the final Findings Report will be sent to the Principal Conduct Officer who will provide a copy to the Mayor, CEO and relevant parties at the same time.
- j) Written reasons for the findings are to be documented in the Findings Report, which must address any matters or provisions prescribed under Section 81AA of the Act;
- k) The Council and the Councillors party to the matter will be given the Arbiter’s written Findings Report in a report prepared and presented to Council at the next Ordinary Council Meeting, for Council to rule and decide on the actions required. Council is encouraged to adopt the recommendations of the Arbiter; and (Note – no names or personal details will be redacted.)
- l) A resolution of Council may adopt any or all of the recommendations made in the Arbiter’s Findings Report as permitted by Section 81AB of the Act.



### **Consideration of the Arbiter's Finding's Report**

If the Arbiter's Findings Report makes recommendations about a Council Officer, the CEO will deal with these sections of the report internally according to the Staff Grievance Procedure.

If the Arbiter's Findings Report makes recommendations about 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 at which the Report is considered. 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.

In any case, as soon as the Arbiter's Findings Report is provided to the Principal Conduct Officer, the CEO, in consultation with the Mayor, will arrange a Confidential Council Briefing which all Councillors are expected to attend. 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 matter being presented to Council.

Councillors who are a party to the matter are taken to not have a conflict of interest under Sections 79C(1)(j) of the Act when the Arbiter's Findings Report is considered at Council briefings and meetings.

At the Confidential Councillor Briefing and subsequently at the Ordinary 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. Specifically, if it is found that a Councillor has contravened the Councillor Code of Conduct, Council may resolve to direct that the Councillor:

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

The CEO, or his/her delegated officer, will then prepare an open Council Report to consider the Arbiter's Findings Report and (where appropriate) recommendations at the next appropriate Council Meeting for Council. (Note – no names or personal details will be redacted.)



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, the Council Resolution might include the text for an apology to be read out by the Councillor at the commencement of the next Council Meeting.

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

A copy of the Arbiter's Findings Report and any Council Resolutions will be placed on the relevant parties' personal file by the CEO/Mayor's Executive Assistant.

#### **Stage 4 – Councillor Conduct Panel appointed**

In the event that a dispute has not been resolved, Council Resolutions remain un-actioned or a Councillor has failed to participate in the internal process outlined above, application may be made to notify the Principal Councillor Conduct Registrar (the Registrar) for a Councillor Conduct Panel to be established to hear the complaint.

This Stage 4 is to be managed in accordance with relevant 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.

Once the relevant Council Resolution is made:

- a) The Mayor is to prepare a cover (introductory) letter outlining Council's actions to date in attempting to resolve the dispute between Councillors and requesting the Registrar review the case and establish a Councillor Conduct Panel (the Deputy Mayor will prepare the letter if the Mayor is either the complainant or the respondent in the case);
- b) The Councillor representative (likely to be the original complainant) is required to provide the substance of the case and the allegation of breaches. These are to be provided to the Mayor (or Deputy Mayor where applicable) for inclusion in the letter to the Registrar;





- c) Where either party is including evidence from witnesses, the party must advise the witness in writing, in advance of the evidence being provided that:  
*"The witness is not obliged to participate in the proceedings, however if they do participate their name and personal information, including their witness statements, may be included in an open report to Council. No names or details will be redacted."* This is necessary to ensure compliance with the Privacy and Data Protection Act 2014.
- d) The introductory letter and all documentation is to be provided to the Principal Conduct Officer to be included in the application to the Principal Councillor Conduct Registrar;
- e) The CEO will determine who will act as Council's Principal Conduct Officer having regard to resourcing requirements and will, if necessary, seek a Council Resolution regarding the qualifications of an eligible person in accordance with Section 814(2)(b) of the Act. Council will also need to be advised that a budget will be required to cover the costs associated with a Councillor Conduct Panel Hearing.
- f) 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 will be established or if the matter is to be referred back to Council;
- g) If a Councillor Conduct Panel is established then the requirements set out in Part 4 Division 1B of the Act will apply;
- h) At the conclusion of the Councillor Conduct Panel, the findings and orders will be considered by Council as outlined below under the *'Consideration of the Councillor Conduct Panel's Report'*;
- i) A decision of a Councillor Conduct Panel can be reviewed by the Victorian Civil and Administrative Tribunal (VCAT); and
- j) Each party to an application for review of a decision of a Councillor Conduct Panel will be required to bear all their own costs (refer Division 8, Section 109 (1) of the Victorian Civil and Administrative Tribunal Act 1998).
- k) Despite section 109 of the VCAT Act 1998, the Council must bear the costs of the proceedings if the Council applies to VCAT for review under section 81Q(2) of the Local Government Act 1989 (refer Part 13B-Local Government Act 1989 section 46F(1) of the VCAT Act 1998); and
- l) The Council is not required to bear the costs of the proceedings under subclause (k) above) if VCAT otherwise orders (refer Part 13B- Local Government Act 1989 section 46F(2) of the VCAT Act 1998).



### **Consideration of the Councillor Conduct Panel's Report**

Upon the conclusion of a Councillor Conduct Panel Hearing, the Councillor Conduct Panel will provide:

- a) notice of its determination; and
- b) a statement of its reasons,  
to Council and the parties to the matter (among others).

A copy of the notice of determination is to be tabled at, and included in the Minutes of, the next Ordinary Council Meeting. This may require it to be included as Urgent Business.

In tabling the Councillor Conduct Panel's determination:

- a) The Principal Conduct Officer will provide a copy of the notice of determination to all Councillors advising them that the document will be tabled at the next Ordinary Council Meeting. A copy will also be provided to the CEO at this time;
- b) A Confidential Councillor Briefing will consider the Councillor Conduct Panel's findings and recommendations prior to the matter being presented to Council;
- c) The Principal Conduct Officer will prepare an Open Council Report, for Council to receive and note the Councillor Conduct Panel's notice of determination, as an open report at the next Ordinary Council Meeting;
- d) Councillors that are parties to the matter are taken to not have a conflict of interest under Section 79C(1)(j) of the Act and therefore are able to be in attendance for the Agenda item dealing with the Councillor Conduct Panel's determination; and
- e) Council and/or Councillors identified by the Councillor Conduct Panel are required to give effect to any directions and orders relevant to them.



At the completion of these steps:

- a) 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 (or such other time as is specified by the Councillor Conduct Panel), the Mayor is to meet with the Councillor and provide a first warning that a failure to comply could lead to further Councillor Conduct Panel applications;
- b) The Mayor is to provide a further period for the Councillor to comply. If, at the end of that period, the Councillor has not complied, the Mayor will meet with the Councillor and advise him/her that application will now be made to form a further Councillor Conduct Panel;
- c) If the Councillor then takes steps to comply, the Mayor will regularly monitor (fortnightly) the Councillor's compliance and, if the Councillor fails to fully comply within one month from the date of the first step towards compliance, then the warning meeting will be repeated; and
- d) If the Councillor fails to fully comply within one month of the further warning, the Mayor will apply to establish a further Councillor Conduct Panel to hear about these alleged further breaches.

#### **Stage 5 – Inspectorate investigation implemented**

A matter will be referred to the Chief Municipal Inspector for investigation and ruling where a Councillor(s) is in breach of the Act such that an offence is committed. The CEO, or his/her delegated Officer, will notify the Inspectorate and fully support their investigation requirements.



## ATTACHMENT 3 - 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.

Complainant 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

#### Complainant 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	



**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	

**Complainant and Respondent to complete at the end of the meeting:**

Areas of common ground reached	Issue(s) remaining in dispute (if any)
Complainant 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	

Complainant Signature \_\_\_\_\_ Date \_\_\_\_\_

Respondent Signature \_\_\_\_\_ Date \_\_\_\_\_



## STAGE 2

Documentation from Stage 1 to be carried forward into Stage 2

### Mayor to complete in discussion with Complainant and Respondent

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



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?	

**Complainant 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):
Complainant 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:	

Complainant Signature \_\_\_\_\_ Date \_\_\_\_\_

Respondent Signature \_\_\_\_\_ Date \_\_\_\_\_

Mayor/Deputy Mayor \_\_\_\_\_ Date \_\_\_\_\_

CEO \_\_\_\_\_ Date \_\_\_\_\_



### STAGE 3

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

Mediator to complete in consultation with the parties:

Complainant's outstanding issues	Specific issue(s) remaining in dispute
Complainant's agreed actions completed	Complainant's agreed actions not completed and reasons for inaction
Respondent's outstanding issues	Specific issue(s) remaining in dispute
Respondent's agreed actions completed	Respondent's 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:	Contraventions of the Code alleged by the Complainant:
Relevant Sections of the Code:	Contraventions of the Code alleged by 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)

Complainant's perspective and interpretation
Respondent's perspective and interpretation





Mediator to complete with the parties

Areas of common ground reached in Stage 3	Issue(s) remaining in dispute (if any) to be arbitrated by the Mediator.
Complainant 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	

Complainant 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, Arbitrator's Finding Report, Council Report(s) and/or Councillor Conduct Panel or Ministerial Reports.



## ATTACHMENT 4 – CONFLICT OF INTEREST

### 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.

In addition to the requirements of the Act:

- 1 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;
- 2 Councillors recognise that the legal onus to determine whether a conflict of interest exists rests entirely with each individual Councillor. Council staff cannot direct Councillors with respect to their identification of potential conflicts. If Councillors cannot confidently say that they do not have a conflict of interest, they will disclose a conflict of interest and comply with the relevant requirements as if they had a conflict of interest; and
- 3 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.

## ATTACHMENT 5 - 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;
- 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;

#### **ATTACHMENT 6 - LEGISLATIVE PROVISIONS**

- Local Government Act 1989
- Victorian Civil and Administrative Tribunal Act 1998
- Accident Compensation Act 1985
- Equal Opportunity Act 2010
- 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
- Sex Discrimination Act 1984
- Independent Broad-based Anti-Corruption Commission Act 2011
- Protected Disclosure Act 2012
- Victorian Inspectorate Act 2011
- Public Interest Monitor Act 2011
- Privacy and Data Protection Act 2014



## ATTACHMENT 7 - DEFINITIONS

In this Councillor Code of Conduct:

<p><b>Assembly of Councillors</b></p>	<p>Has the same meaning as in Section 3(1) of the Act:</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>
<p><b>Chair</b></p>	<p>A person elected or given the responsibility to preside over the meeting. Refer to Clauses 5 and 30(a) in Local Law No.3 2010.</p>
<p><b>CEO / Chief Executive Officer</b></p>	<p>The Chief Executive Officer has the same meaning as in Section 3(1) of the Act:</p> <p>“means the person appointed by a Council to be its Chief Executive Officer or any person acting in that position.”</p>
<p><b>Council</b></p>	<p>Has the same meaning as in Section 3(1) of the Act:</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>
<p><b>Councillor(s)</b></p>	<p>Has the same meaning as in Section 3(1) of the Act:</p> <p>“means a person(s) who holds the office of member of the Council.”</p>
<p><b>Councillor Code of Conduct</b></p>	<p>Has the same meaning as in Section 3(1) of the Act:</p> <p>“means the code of conduct developed by a Council under Section 76C”.</p>
<p><b>Independent Person</b></p>	<p>Means a person not connected with Council (either Councillor or staff member).</p>
<p><b>Ordinary Meeting</b></p>	<p>Has the same meaning as in Section 83 of the Act:</p> <p>“ordinary meetings at which general business of the Council may be transacted.”</p>



<b>Principal Conduct Officer</b>	A Council Officer appointed by the CEO under s814 of the Act to assist with Councillor Conduct Panel.
<b>Participants in a meeting</b>	Includes Councillors, Council Staff, Media, public presenters and people observing in the gallery.
<b>Principal Councillor Conduct Registrar</b>	Has the same meaning as in Section 3(1) of the Act: “means the person appointed by the Secretary to be the Principal Councillor Conduct Registrar under section 815”.
<b>Public</b>	Means community members, representatives of community groups, consultants acting on behalf of Council or community members, media representatives and any other person who is not an employee or Councillor of Council.
<b>Special Meeting</b>	Has the same meaning as in Section 83 of the Act: “special meetings at which the business specified in the notice calling the meeting may be transacted.”

