

# **Corangamite Shire**

## **AGENDA**

# **Special Council Meeting**

*6.45 pm • Tuesday 24 May 2016*

*Killara Centre  
210-212 Manifold Street, Camperdown*

---

# Order of Business

---

1. PRAYER
2. APOLOGIES
3. DECLARATIONS OF CONFLICT OF INTEREST
4. DEPUTATIONS & PRESENTATIONS
5. OFFICER'S REPORT

**ANDREW MASON**  
**CHIEF EXECUTIVE OFFICER**

**DISCLAIMER**

The advice and information contained herein is given by the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written enquiry should be made to the Council giving the entire reason or reasons for seeking the advice or information and how it is proposed to be used.

---

# Table of Contents

---

Item No.		Page No.
1.	<b>PRAYER .....</b>	<b>1</b>
2.	<b>APOLOGIES .....</b>	<b>1</b>
3.	<b>DECLARATIONS OF CONFLICT OF INTEREST .....</b>	<b>1</b>
4.	<b>DEPUTATIONS &amp; PRESENTATIONS.....</b>	<b>3</b>
5.	<b>OFFICER'S REPORT .....</b>	<b>4</b>
5.1	REVIEW OF COUNCILLOR CODE OF CONDUCT .....	4

---

#### **4. DEPUTATIONS & PRESENTATIONS**

1. Members of the public may address Council under this section of the Agenda of an Ordinary Meeting of the Council if:
  - a) The person is addressing the Council in respect to a submission on an issue under Section 223 of the *Local Government Act*, or
  - b) The person has requested that they address Council on an issue and the Mayor has agreed that they be heard.
2. Requests to address Council must be received by 5.00 pm on the day prior to the scheduled Ordinary Meeting of the Council.
3. Presentations made to Council in this section of the Agenda may not exceed five minutes in length, although Councillors may ask questions proceeding each presentation. If a presentation exceeds five minutes in length, the Mayor may request that the presenter ceases to address Council immediately.

## 5. OFFICER'S REPORT

### 5.1 Review of Councillor Code of Conduct

**Author:** Marilyn Lynch, Organisational Development Coordinator

**File No:** D16/231

**Previous Council Reference:** Nil

#### **Declaration**

Chief Executive Officer – Andrew Mason

In providing this advice to Council as the Chief Executive Officer, I have no interests to disclose in this report.

Author - Marilyn Lynch

In providing this advice to Council as the Organisational Development Coordinator, I have no interests to disclose in this report.

#### **Summary**

The *Local Government Amendment (Improved Governance) Act 2015* was passed by Parliament in October 2015, resulting in substantial changes to the *Local Government Act 1989* (the Act) in relation to Councillor conduct and governance requirements. The reforms are intended to improve the accountability of Councillors, in particular to improve standards of behaviour to strengthen Council governance. Council is required to review its current Councillor Code of Conduct (the Code) within four months of the Act coming into effect on 1 March 2016 at a special meeting of Council, called solely for that purpose.

#### **Introduction**

This report provides advice to Council on the major reforms under the new legislation and their impact on the Code which was adopted by Council in February 2013. The Code has been revised to comply with the new legislation. One of the major changes to the Code is replacement of the existing Dispute Resolution Procedure by a more extensive Internal Resolution Procedure provided by MAV in their Model Councillor Code of Conduct. The revised Code is attached for Council to review.

#### **Issues**

Key amendments arising from the *Local Government Amendment (Improved Governance) Act 2015* include:

- definition of the role of a Councillor to ensure councillors understand their role
- definition of the functions of Mayor to provide greater clarity of the role
- expansion of the role of the CEO to include providing support for the Mayor in the performance of his or her role and being responsible for managing interactions between Council staff and Councillors
- new definitions bullying, misconduct, serious misconduct and gross misconduct by a Councillor
- a mandatory internal resolution procedure to be specified in the Code for the purposes of addressing an alleged contravention of the Code by a Councillor

- defining the role of Arbiter to undertake the conduct of any internal resolution procedure
- creation of the position of Principal Conduct Officer to be appointed by the CEO
- sanctions for contravention of the Code by a Councillor.

Council's current Dispute Resolution Procedure focusses on a process for resolving disputes between Councillors. Under new legislation, councils are required to have in place an internal resolution procedure which addresses conduct that is in breach of the Code and must make clear how allegations of breaches of the Code are to be handled.

The MAV has released a Model Councillor Code of Conduct to assist Victorian councils comply with recent amendments to the Act which provides a blue-print for a comprehensive Internal Resolution Procedure. This involves a three-phase process to which parties may resort if they have failed to reach a resolution between themselves. This procedure relates to any dispute involving:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- an alleged contravention of the Councillor Code of Conduct.

Revisions to Corangamite Shire's Councillor Code of Conduct include:

- replacement of the current Dispute Resolution Procedure by the Internal Resolution Procedure outlined in the Model Councillor Code of Conduct prepared by the Municipal Association of Victoria
- removal of the Councillor Conduct Principles as the Act no longer requires them to be included in the Code
- reference to the additional responsibilities and functions for the roles of Mayor, Councillors and CEO
- appointment of a Principal Conduct Officer and an independent Arbiter
- sanctions available to Council for breaches of the Code
- definition of the hierarchy of Councillor conduct issues and their escalation to external management, as appropriate
- changes to requirements for review of the Code and Councillor Declarations.

Allegations of misconduct will be referred to an external Councillor Conduct Panel and a new position of Principal Councillor Conduct Registrar will manage implementation of the new panel process, including the establishment of panels. The Registrar will publish guidelines regarding all panel processes to ensure these are understood by the sector.

### **Policy and Legislative Context**

The *Local Government Amendment (Improved Governance) Act 2015* requires Council to review its current Code within four months of the Act commencing operation. Council is also required to undertake a review of the Code within four months after a general election.

Within one month of any amendment being made to the Code, all Councillors must make a declaration stating that they will abide by the revised Code, and this declaration must be signed and witnessed by the Chief Executive Officer. Failure to make a declaration to abide by the Code is a ground for disqualification as a Councillor.

Once adopted, a copy of the Code must be given to each Councillor and be available for inspection by the public at the Council offices and posted on Council's website.

---

The revised Code is consistent with Corangamite Shire's Processes of Municipal Government Local Law No. 3 and the *Charter for Human Rights (2006)*.

#### **Internal / External Consultation**

Councillors and senior officers have been consulted in the preparation of the revised Code. The revised Code has been benchmarked against the MAV's Model Councillor Code of Conduct.

#### **Financial and Resource Implications**

There are no financial implications in the adoption of a revised Code of Conduct for Councillors.

#### **Options**

Council may decide to adopt the revised draft Councillor Code of Conduct as proposed or may wish to make further changes.

#### **Conclusion**

The adoption of a revised Councillor Code of Conduct complies with the *Local Government Act 1989*, incorporating amendments from the *Local Government Amendment (Improved Governance) Act 2015*, to review its Code of Conduct within four months of the new requirements of the Act coming into effect.

### **RECOMMENDATION**

#### **That:**

- 1. Council revokes the Councillor Code of Conduct dated 26 February 2013.**
- 2. Council adopts the Councillor Code of Conduct dated May 2016 and Councillors sign the Code of Conduct.**
- 3. Councillors make and sign a declaration that they will abide by the Councillor Code of Conduct to be witnessed and signed by the Chief Executive Officer.**
- 4. A copy of the Councillor Code of Conduct be placed on Council's website and be made available to the public at the Civic Centre.**

#### **Attachments**

1. Councillors Code of Conduct May 2016
2. Copy of Declaration to be signed and witnessed by the CEO – under separate cover



**CORANGAMITE  
SHIRE**

# **Councillor Code of Conduct**

**Corangamite Shire**

May 2016



## Table of Contents

<b>1. Introduction.....</b>	<b>3</b>
<b>2. What We Are .....</b>	<b>3</b>
<b>3. Trade Mark Behaviours.....</b>	<b>3</b>
<b>4. Councillor Conduct Principles .....</b>	<b>4</b>
<b>5. Compliance with the Code of Conduct .....</b>	<b>4</b>
5.1    Courtesy and Respect .....	4
5.2    Integrity and Honesty .....	4
5.3    Position of Trust .....	4
5.4    Council Resources .....	5
5.5    Council Information .....	5
<b>6. Application of the Code of Conduct .....</b>	<b>5</b>
<b>7. Relationships .....</b>	<b>6</b>
7.1    Mayor/Councillors .....	6
7.2    Councillors/Councillors .....	6
7.3    Mayor/Chief Executive Officer (CEO) .....	6
7.4    Councillors/Chief Executive Officer (CEO) .....	6
7.5    Councillors/Council Staff .....	7
<b>8. Council decision-making processes .....</b>	<b>7</b>
<b>9. Conflict of Interest Procedures.....</b>	<b>7</b>
<b>10. Acceptance of Gifts or Hospitality .....</b>	<b>8</b>
<b>11. Support for Council Decisions.....</b>	<b>8</b>
<b>12. Appointment of Principal Conduct Officer .....</b>	<b>9</b>
<b>13. Appointment of Independent Arbiter .....</b>	<b>9</b>
<b>14. Internal Resolution Procedure.....</b>	<b>9</b>
Phase 1: Direction Negotiation.....	9
Phase 2: External Mediation.....	10
Phase 3: Internal Resolution Procedure – Arbiter .....	11
<b>15. Sanctions for breaches of the Councillor Code of Conduct.....</b>	<b>14</b>
<b>16. Hierarchy of Conduct Standards.....</b>	<b>15</b>
<b>17. Statement of Caretaker Procedures .....</b>	<b>15</b>
<b>18. Interaction/relationship to other policies .....</b>	<b>15</b>
<b>19. Review of Code of Conduct.....</b>	<b>16</b>
<b>20. Compliance with <i>Charter of Human Rights (2006)</i> .....</b>	<b>16</b>
<b>21. Endorsement.....</b>	<b>17</b>



## Councillor Code of Conduct

### 1. Introduction

This Code of Conduct is intended to govern not only the use of resources, but also relationships between Councillors, recognising that these relationships are critical to sound, effective governance. The Code is in accordance with the provisions of the *Local Government Act 1989* (the Act), incorporating amendments from the *Local Government Amendment (Improved) Governance Act 2015*, and complements our *Local Law No. 3: Processes of Municipal Government 2009* as well as other Council policies.

As Councillors of Corangamite Shire, we are committed to working together in the best interests of the people within our municipality and to discharging our responsibilities to the best of our skill and judgement

### 2. What We Are

We are respected, empowering and innovative.

This is because we:

- encourage risk taking and learning
- respect and support each other and decisions made
- engage in robust discussion
- take responsibility.

### 3. Trade Mark Behaviours

Behaviours we will commit to:

- respecting other opinions
- building confidence in others
- encouraging risk taking and learning
- respecting and support the decision – after honest and robust discussion
- being committed – on time, prepared and engaged
- following guidelines and policies
- keeping each other informed.

Behaviours we will not tolerate from each other:

- exclusion – not listening, lack of communication
- no consultation, not sharing the load
- breaking confidentiality
- not accepting team decisions.

---

#### 4. Councillor Conduct Principles

We commit ourselves to ensure that our behaviour is consistent with the Councillor Conduct Principles in accordance with the Act.

#### 5. Compliance with the Code of Conduct

We will demonstrate our adherence to this Code of Conduct by:

##### 5.1 Courtesy and Respect

Treating all people with **courtesy and respect**, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. This includes:

- a) Treating members of the community with dignity and making all efforts to ensure that neither offence nor embarrassment are caused.
- b) Treating fellow Councillors with respect, even when disagreeing with their views or decisions.
- c) Debating contentious issues without resorting to personal acrimony or insult.
- d) Acting with courtesy towards Council staff and avoiding intimidatory behaviour.

##### 5.2 Integrity and Honesty

Always acting with **integrity and honesty**:

- a) Being honest in all dealings with the community, with other Councillors and with Council staff.
- b) Always acting with impartiality and in the best interests of the community as a whole.
- c) Not acting in ways that may damage the Council or its ability to exercise good government.
- d) Exercising reasonable care and diligence in performing our functions as Councillors.
- e) Complying with all relevant laws, be they Federal, State or Local Laws.

##### 5.3 Position of Trust

Recognising that we hold a **position of trust** and will not misuse or derive undue benefit from our positions:

- a) We will avoid conflicts of interest and comply with the relevant provisions of the Act and this Code of Conduct relating to interests and conflicts of interest.
- b) We will not exercise undue influence on other Councillors, members of Council staff or members of the public to gain or attempt to gain an advantage for themselves.
- c) We will adhere to the requirements of the *Local Government Act 1989* with regards to conflicts of interest and applicable gifts. In addition we will:

- Not accept gifts where it could be perceived to influence our decision except where the gift would generally be regarded as only having a token value and could not be perceived to influence actions or decisions.
- Where refusal of a gift may cause offence or embarrassment, in which case the gift may be accepted on behalf of the Council and become the property of Council.

#### 5.4 Council Resources

Exercising appropriate prudence in the use of Council resources. This includes:

- a) Maintaining appropriate separation between personal property and Council property in the care of the Council.
- b) Not using Council resources, including staff, equipment and intellectual property for electoral or other personal purposes.
- c) Ensuring that Council resources are always used effectively and economically and for the purposes for which they are provided.
- d) Ensuring that claims for out of pocket expenses are accurate and relate strictly to Council business.

#### 5.5 Council Information

Treating **Council information** appropriately, by:

- a) Not using information gained by virtue of being a Councillor for any purpose than to exercise their role as a Councillor.
- b) Respecting the Council's policies in relation to public comments and communications with the media.
- c) Not releasing information deemed 'confidential information' in accordance with Section 77 of the *Local Government Act 1989*.
- d) Recognising the requirements of the *Information Privacy Act 2000* regarding the access, use and release of personal information.
- e) If we are unsure if a matter is confidential we will seek advice from the Chief Executive Officer, but acknowledge that the legal onus to maintain confidentiality rests on individual Councillors.

#### 6. Application of the Code of Conduct

A Councillor must observe the Code of Conduct whenever he or she:

- a) conducts the business of the Council
  - b) conducts the business of the office to which he or she has been elected or appointed
  - c) acts as a representative of the Council
- or
- d) is in any dealings with the public and or generally in the public arena.

---

## 7. Relationships

We understand that the relationship between elected officials and employed staff of the Shire is critical to ensuring that the Council can meet its objectives and fulfill its obligations to the community. Broadly, we commit ourselves to open and respectful relationships, while specifically we note the particular importance of the following relationships:

### 7.1 Mayor/Councillors

The functions of Mayor are defined in section 73AA of the Act. We will support the Mayor in the execution of his/her role, ensuring that the office of Mayor continues to be held in high esteem by the community.

### 7.2 Councillors/Councillors

The role of Councillors is defined in section 65 of the Act.

We know that the effective functioning of Council is based on harmonious relationships between Councillors.

We will strive for shared understanding and knowledge of issues critical to our community as a whole, and provide our fellow Councillors with the benefit of our local knowledge.

We will consider the manner in which we engage with each other, acknowledging that we may at times have differing opinions. We will strive to undertake our discussions and debates in respectful, open way.

We understand that the discussions of Council are not merely a forum in which to put our own opinion but also a forum in which to listen to the views of others.

We will not resort to verbal or physical abuse, nor will we tolerate this behaviour by others.

### 7.3 Mayor/Chief Executive Officer (CEO)

Section 94A of the Act specifically includes the responsibility of the CEO for supporting the Mayor in the performance of his or her role. We have an expectation that the role of the Mayor includes regular interaction with the CEO to ensure that information relevant to councillors and staff is communicated swiftly.

### 7.4 Councillors/Chief Executive Officer (CEO)

The role of a Councillor does not include the performance of any functions that are specified as functions of the CEO under section 94A of the Act.

We recognise that maintaining a strong working relationship between Councillors and the CEO builds on the organisations understanding of our varied communities and increases the engagement between communities and the organisations employed staff. We will therefore ensure that our exchange of information is forthright and respectful.

---

## 7.5 Councillors/Council Staff

The Chief Executive Officer is responsible for managing interactions between Council Staff and Councillors, ensuring that appropriate policies, practices and protocols are in place which govern arrangements for their interaction.

We express our commitment to a high level of professionalism in our interaction with Council staff. We recognise that our interaction with Council staff, where appropriate should predominantly occur following initial contact with the Chief Executive Officer or relevant Director.

Our commitment to steadfastly avoid the misuse of Council resources includes an undertaking to ensure that Council staff are not diverted by personal requests from Councillors.

We will refer any complaint regarding a member of Council staff to the Chief Executive Officer.

## 8. Council decision-making processes

We 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:

- a) We will actively and openly participate in the decision making process, striving to be informed and to achieve the best outcome for the community.
- b) We will respect the views of the individual in the debate. However, we also accept that decisions are based on a majority vote.
- c) We accept that no Councillor can direct another Councillor on how to vote on any decision
- d) We will commit to voting in all circumstances unless a conflict of interest provision prevents otherwise.

## 9. Conflict of Interest Procedures

We are committed to making all decisions impartially and in the best interests of the whole community. We therefore recognise the importance of fully observing the requirements of the *Local Government Act 1989* in regard to the disclosure of conflicts of interest and including applicable gift.

In addition to the requirements of the Act:

- a) We will give early consideration to each matter to be considered by the Council, Special Committee, of which the Councillor is a member, Audit Committee or Assembly of Councillors, to ascertain if we have a conflict of interest.
- b) We recognise that the legal onus to determine whether a conflict of interest exists rests entirely with the individual Councillor and that Council officers cannot offer any advice in relation to potential conflicts. If a Councillor cannot confidently say that he or she does not have a conflict of interest, the Councillor will declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest.

- 
- c) If the Councillor considers 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, Advisory Committee, Audit Committee or an Assembly of Councillors, as well as the Chief Executive Officer, in addition to adhering to the requirements of the Local Government Act in relation to procedures for disclosures.
- d) Councillors will adhere to the requirement to declare a conflict of interest in a matter if they or a member of their family has received an applicable gift from a person company or body that has a direct interest in the matter. An applicable gift includes a gift, or gifts, received in the past five years from someone who has a direct interest in a particular matter and where the total value of the gift or gifts is at least \$500. This includes:
- gifts in the form of good or services
  - multiple gifts from a single source with a total value of \$500 or more
  - money or any kind.

### **10. Declining of Gifts or Hospitality**

As a guiding principle, Councillors will not accept a gift or hospitality if it is likely to be perceived by a 'reasonable person', as intended to, or likely to, influence them in the fair, impartial and efficient performance of their duties including the perception of a conflict of interest. In addition the following criteria will be adhered to:

- a) If a Councillor's refusal to accept a gift is ignored, or for other reasons a gift cannot reasonably be returned, the gift will be regarded as the property of the Council.
- b) All gifts other than those of nominal value should be handed to the Chief Executive Officer as property of the Council.
- c) All gifts, regardless of the value must be declared to the Chief Executive Officer and entered into the Gift Register
- d) Declined gifts should also be declared to the Chief Executive Officer and entered into the Gift Register
- e) Under no circumstances will we receive money as a gift.

### **11. Support for Council Decisions**

We understand that Council is bound by the decisions made at Council meetings, and that while we may not agree with all decisions taken it is our responsibility to ensure stability of governance in our Shire.

Notwithstanding our right to express our views and the views of our constituents on any given matter, we will respect decisions made by Council and give our support to them.

---

## **12. Appointment of Principal Conduct Officer**

A Principal Conduct Officer is appointed by the CEO to assist Council in the implementation and conduct of the Internal Resolution Procedure. The Principal Conduct Officer must be either a senior council officer or the subject of a council resolution approving their qualifications for the role.

## **13. Appointment of Independent Arbiter**

The Internal Resolution Procedure must include an independent arbiter who is able to consider alleged violations of the Councillor Code of Conduct and make final determinations on them fairly and without bias. Persons subject to allegations must be given an opportunity to be heard and decisions by the Arbiter must be supported by written reasons.

## **14. Internal Resolution Procedure**

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. Where the matter still remains unresolved, the parties may resort to any or all of the council's three phase dispute resolution process, involving:

- direct negotiation between the parties in dispute with the Mayor in attendance to provide guidance;
- external mediation by an independent mediator engaged by the Chief Executive Officer; and
- an internal resolution procedure involving an independent arbiter.

### **1. Phase 1: Direction Negotiation**

Where Councillors who are in dispute have not been able to resolve the dispute between them, either or both parties may request the Mayor to convene a meeting of the parties.

A dispute referred for direct negotiation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- an alleged contravention of the Councillor Code of Conduct.

The party requesting the direct negotiation meeting is to provide the Mayor with the name of the other Councillor and the details of the dispute in writing. The written request is to indicate that it is for a "direct negotiation" dispute resolution process.

Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the request is made by a group of Councillors; and
- be signed and dated by the requestor or the requestors' representative.



The requestor is to notify the other party of the request and provide him or her with a copy of the written request either at the same time as it is provided to the Mayor or as soon as practicable thereafter.

The Mayor is to ascertain whether or not the other party is prepared to attend a “direct negotiation” meeting.

If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. No further action is required of the Mayor. If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within five (5) working days of receiving the consent of the other party.

The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor, including in relation to the role of a councillor under section 65 of the Act, and the observation of the Councillor Conduct Principles and the Councillor Code of Conduct.

The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to external mediation or the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, either or both of the parties have recourse to external mediation or the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

Where the Mayor is party to the dispute, the request is to be made to the Deputy Mayor (if any) or the immediate past Mayor. The Deputy Mayor or the immediate past Mayor will perform the functions ascribed to the Mayor.

## **Phase 2: External Mediation**

A Councillor or a group of Councillors may make an application for a dispute to be referred for external mediation, whether or not the dispute has been the subject of an application for “direct negotiation”.

An application made for a dispute to be referred for external mediation may relate to:

- an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or
- an alleged contravention of the Councillor Code of Conduct

---

The applicant is to submit a written application to the Principal Conduct Officer setting out the name of the Councillor and the details of the dispute. The application is to indicate that the application is for an “external mediation”. Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicants’ representative.

The applicant is to notify the other party of the request and provide him or her with a copy of the application either at the same time that it is submitted to the Principal Conduct Officer or as soon as practical thereafter.

The Principal Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend an “external mediation”. If the other party declines to participate in an external mediation, he or she is to provide their reasons for doing so in writing to the Principal Conduct Officer. These reasons may be taken into account if the matter is subsequently the subject of an application for a Councillor Conduct Panel.

If the other party declines to participate in an external mediation, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party agrees to participate in an external mediation, the Principal Conduct Officer is to advise the applicant, the Mayor and Chief Executive Officer forthwith.

The Chief Executive Officer is to engage the services of an external mediator to conduct the mediation at the earliest practicable opportunity.

The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct

### **Phase 3: Internal Resolution Procedure – Arbiter**

An application cannot be made for an internal resolution procedure during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an internal resolution procedure is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

- the application was made by the Council and the Council so resolves; or
- the application was made by a group of Councillors and any one (or more) of those Councillors who have been returned to office, wishes to proceed with the application; or
- the applicant (individual Councillor) is returned to office and wishes to proceed with the application.

A Councillor or a group of Councillors may make an application alleging that a Councillor has contravened this Councillor Code of Conduct. The application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicant's representative.

The application must be submitted to the Council's Principal Conduct Officer. An applicant may withdraw an application for an internal resolution procedure. Once an application has been withdrawn, the same or a similar application relating to the same instance in relation to the respondent Councillor cannot be resubmitted by the applicant.

On receiving an application, the Principal Conduct Officer will:

- advise the Mayor and CEO of the application without undue delay;
- provide a copy of the application to the Councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;
- identify an arbiter to hear the application;
- obtain from the arbiter written advice that they have no conflict of interest in relation to the Councillors involved;
- notify the parties of the name of the proposed arbiter and provide them with the opportunity (2 working days) to object to the person proposed to be the arbiter;
- consider the grounds of any objection and appoint the proposed arbiter or identify another arbiter;
- provide a copy of the application to the arbiter as soon as practicable after the opportunity for the parties to object to an arbiter has expired;
- after consultation with the arbiter, advise the applicant and the respondent of the time and place for the hearing; and
- attend the hearing(s) and assist the arbiter in the administration of the process.

In identifying an arbiter to hear the application, the Principal Conduct Officer must select an arbiter who is suitably independent and able to carry out the role of arbiter fairly.

The role of the arbiter is to:

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

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

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

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

An arbiter:

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

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

A copy of the arbiter's findings, statement of reasons and any recommended sanctions is to be submitted to the next ordinary meeting of the Council for

---

consideration. If an arbiter has found that a contravention of the Code has occurred, the Council may, after considering the arbiter's findings, statement or reasons and recommendation on sanctions, give any or all of the following written directions to the Councillor:

- direct the Councillor to make an apology in a form or manner specified by the Council;
- direct the Councillor not to attend up to, but not exceeding, two (2) meetings of the Council (in respect of the next scheduled meetings of the Council);
- direct that, for a period of up to but not exceeding two (2) months on a date specified by the Council, the Councillor will:
  - be removed from any position where the Councillor represents the Council;
  - not chair or attend any advisory or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.

A Councillor who does not participate in the internal resolution procedure may be guilty of misconduct. The Act provides that misconduct by a Councillor means any of the following:

- a) failure by a Councillor to comply with the council's internal resolution procedure; or
- b) failure by a Councillor to comply with a written direction given by the Council under section 81AB; or
- c) repeated contravention of any of the Councillor Conduct Principles.

Allegations of misconduct are heard on application by a Councillor Conduct Panel.

### **15. Sanctions for breaches of the Councillor Code of Conduct**

The Act specifies sanctions which may be imposed through the Internal Resolution Procedure for breaches of the Code. These must be voted on by Council as a whole and may include:

- requiring an apology;
- suspension from up to two council meetings;
- direction that they not attend or chair an advisory or special committee for up to two months;
- direction that they be removed from a position where they represent council for up to two months.

## 16. Hierarchy of Conduct Standards

The table below defines the hierarchy of Councillor conduct issues and the appropriate escalation to external management of Councillor misconduct:

Degree of Seriousness	Definition	Responsible Authority
Conduct inconsistent with standards Council has set itself	Breaches of Councillor Code of Conduct	Council
Misconduct	Failing to comply with Council's internal resolution procedure, including failure to abide by any decision of Council in relation to a breach of the code and repeated breaches of Councillor Conduct Principles	Councillor Conduct Panel
Serious Misconduct	Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct	Councillor Conduct Panel
Gross Misconduct	Behaviour that demonstrates lack of character to be a Councillor	VCAT

## 17. Statement of Caretaker Procedures

The Council is committed to fair and democratic elections and committed to good governance practices and the legislative requirements as outlined in the *Local Government Act 1989* and in Council's Elections (Caretaker) Policy.

## 18. Interaction/relationship to other policies

Corangamite has developed a range of policies related to Councillor activity and decision making. We undertake to both familiarise ourselves with these policies, adhere to them as required and to seek advice if we are unsure of the policy detail.

Current policies regarding Councillor activity and decision making include:

- Support for Councillor Professional Development
- Councillor Expenses
- Media Relations
- Public Participation at Council Meetings
- Community Group Loan Guarantees
- Information Privacy

- Procurement
- Investment
- Corporate Purchase Card
- Community Engagement
- Committees of Council
- Risk Management
- Caretaker (Elections).

We acknowledge that we take a role in the development and review of these policies and commit to ensuring that policies regarding governance and transparency in our activities are reflective of community expectations and practice of Council.

### **19. Review of Code of Conduct**

Council must, within four months after a general election:

- a) call a special meeting solely for the purpose of reviewing the Councillor Code of Conduct; and
- b) at that special meeting, approve any amendments to be made to the Councillor Code of Conduct determined by the Council to be necessary following the review of the Councillor Code of Conduct

A copy of this Code of Conduct (as amended from time to time) must be:

- given to each Councillor
- available for inspection at the Council Offices
- published on the Council's internet website

Within one month of any amendment being made to the Councillor Code of Conduct, all Councillors will sign a declaration stating that they will abide by the revised Councillor Code of Conduct and the declaration will be signed and witnessed by the CEO. It is the personal responsibility of Councillors to ensure they are conversant with and comply with the provisions of this Code.

### **20. Compliance with *Charter of Human Rights (2006)***

It is considered that this Code of Conduct does not impact negatively any rights identified in the *Charter of Human Rights Act (2006)*.

---

**21. Endorsement**

This Code of Conduct was adopted by the Council on xxxxx and is signed by the following Councillors.

---

Councillor Jo Beard

---

Councillor Ruth Gstrein

---

Councillor Peter Harkin

---

Councillor Wayne Oakes

---

Councillor Chris O'Connor

---

Councillor Geoff Smith

---

Councillor Neil Trotter