



Councillor Code of Conduct

June 2024

DRAFT

Council respectfully acknowledges and recognises Wurundjeri and Bunurong peoples as the Traditional Custodians of this land and pays respect to their Elders past, present and future.

Council acknowledges the legal responsibility to comply with the Charter of Human Rights and Responsibilities Act 2006 and the Equal Opportunity Act 2010. The Charter of Human Rights and Responsibilities Act 2006 is designed to protect the fundamental rights and freedoms of citizens.

The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality and dignity.

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1 INTRODUCTION

1.1 Councillor's important contribution to achieving Council's values

The Councillor's Code of Conduct outlines the principles and guidelines that govern the work of Councillors. By adhering to this code, Councillors play a vital role in upholding Council's core values. Our commitment to being respectful, finding better ways, acting with integrity, and working together forms the foundation of our collective efforts to serve the community and ensure effective governance. Councillors contribute to Council's values by treating others with respect, seeking innovative solutions, acting with integrity, and collaborating with others to achieve our goals.

1.2 Legislative framework

The Local Government Act 2020 (the Act) requires a council to develop and maintain a Councillor Code of Conduct. The Councillor Code of Conduct is required to be periodically reviewed. This Councillor Code of Conduct (Code) has been adopted by Council to comply with the requirements of the Act.

A Councillor Code of Conduct:

- Must include the Standards of Conduct prescribed by the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations) expected to be observed by Councillors.
- Must include any provisions prescribed by the Regulations.
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- May include any other matters which Council considers appropriate, other than any other Standards of Conduct.

The Standards of Conduct with which Councillors are required to comply are specified in Schedule 1 to the Regulations.

Misconduct by a Councillor is defined in the Act as any breach by a Councillor of the standards of conduct. Misconduct may be pursued in accordance with the processes set out in this Code.

1.3 Councillors commitment

Councillors commit to the principles of good governance, working together in the best interests of the people within the municipality and to discharging responsibilities to the best of their skill and judgment.

1.4 Purpose of this Code

The purpose of this Code is to set out the Standards of Conduct that Councillors must comply with to:

- Foster good working relationships between Councillors to enable Councillors to work constructively together in the best interests of the municipal community.
- Lift the standard of behaviour of Councillors during Council meetings, Councillor Briefings and any other meetings which Councillors participate in from time to time.
- Establish benchmarks for Councillor conduct designed to build public confidence in the integrity of local government.

2 ROLES AND RESPONSIBILITIES

2.1 Role of Council

The role of Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community (see section 8 of the Act). Council provides good governance if:

- It performs its role in accordance with the Overarching Governance Principles in section 9 of the Act.
- The Councillors perform their roles in accordance with section 28 of the Act.

In performing its role, Council may:

- Perform any duties or functions and exercise any powers conferred on it under the Act or any other Act.
- Perform any other functions that it considers are necessary to enable that performance.

Good governance is fundamental to Council being able to perform its role. Good governance relies on, among other things, good working relationships between Councillors.

2.2 Role of Councillors

Section 28 of the Act provides that the role of a Councillor is:

- To participate in the decision-making of Council.
- To represent the interests of the municipal community in that decision-making.
- To contribute to the strategic direction of Council through the development and review of key strategic documents of the Council, including the Council Plan.

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

- Consider the diversity of interests and needs of the municipal community.
- Support the role of Council.
- Acknowledge and support the role of the Mayor.
- Act lawfully and in accordance with the oath or affirmation of office.
- Act in accordance with the Standards of Conduct.
- Comply with Council procedures required for good governance.

Councillors may represent the Mayor at functions and meetings where the Mayor and Deputy Mayor are unavailable. Allocation of representation roles will be made by the Mayor

The role of a Councillor expressly excludes the performance of any responsibilities or functions of the Chief Executive Officer (CEO).

2.3 Role of the Deputy Mayor

The Deputy Mayor has a leadership and representational role in conjunction with the Mayor. Due to the large number of Mayoral engagements and commitments, the Deputy Mayor is expected to assist in representing the Mayor at various functions and meetings.

In line with Council resolution, the Deputy Mayor will assume the role of Acting Mayor during periods of absence of the Mayor, or at the request of the Mayor.

2.4 Role of the Mayor

Section 18 of the Act provides that the role of the Mayor is to:

- Chair Council meetings.
- Be the principal spokesperson for Council.
- Lead engagement with the municipal community on the development of the Council Plan.
- Report to the municipal community, at least once each year, on the implementation of the Council Plan.
- Promote behaviour among Councillors that meets the Standards of Conduct set out in the Councillor Code of Conduct.
- Assist Councillors to understand their role.
- Take a leadership role in ensuring the regular review of the performance of the CEO.
- Provide advice to the CEO when the CEO is setting the agenda for Council meetings.
- Perform civic and ceremonial duties on behalf of Council.

2.5 Role of the CEO

Section 46 of the Act sets out the functions of the CEO, which include:

- Supporting the Mayor and the Councillors in the performance of their roles.
- Ensuring the effective and efficient management of the day-to-day operations of the Council.
- Ensuring Council decisions are implemented without undue delay.
- Developing, adopting and disseminating a Staff Code of Conduct.
- Providing timely advice to Council.
- Ensuring that Council receives timely and reliable advice about its legal obligations.
- Supporting the Mayor in the performance of the Mayor's role.
- Setting the agenda for Council meetings after consulting the Mayor.
- When requested by the Mayor, reporting to Council in respect of the implementation of a Council decision.
- Carrying out Council's obligations as an employer with respect to Councillors as deemed employees under the workplace health and safety legislation.
- Establishing and maintaining an organisational structure for Council.
- Being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff.
- Managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between Council

staff and Councillors.

- Developing and maintaining a workforce plan.

The CEO will determine the extent to which Councillors will be informed of decisions made in pursuit of these functions. Councillors acknowledge that any information provided by the CEO is provided as a courtesy and in pursuit of maintaining good working relationships.

Councillors accept that they must not seek to direct the CEO with respect to the fulfilment of these functions.

It is neither the role nor the responsibility of the CEO to mediate disagreements arising between Councillors, or to draft, or otherwise assist in the drafting of, an application under this Code or the Act.

2.6 Role of the Councillor Conduct Officer

The CEO will from time to time appoint a member of Council staff as the Councillor Conduct Officer under section 150 of the Act. The Councillor Conduct Officer must:

- Assist Council in the implementation and conduct of the internal arbitration process.
- Assist the Principal Councillor Conduct Registrar to perform his or her functions.
- Assist the Principal Councillor Conduct Registrar in relation to any request for information.

It is neither the role nor the responsibility of the Councillor Conduct Officer to draft, or to otherwise assist in the drafting of, an application under this Code or the Act.

2.7 Role of the Principal Councillor Conduct Registrar

The Principal Councillor Conduct Registrar is appointed by the Secretary Department of Jobs, Precincts and Regions under section 148 of the Act and is employed by the State Government under Part 3 of the *Public Administration Act 2004*.

The functions of the Principal Councillor Conduct Registrar are outlined in section 149 of the Act and include (in summary):

- Receiving and appointing arbiters for internal arbitration processes.
- Publishing guidelines for the arbitration process.
- Providing advice to arbiters and publishing arbiters' decisions and reasons.
- Setting fees for arbiters and Councillor Conduct Panels.
- Forming Councillor Conduct Panels.
- Providing advice to panel members.
- Keeping copies of panel documents.
- Complying with document requests from the Chief Municipal Inspector or VCAT, and requesting information from Councils.

The Principal Councillor Conduct Registrar also has the power to do everything necessary for the performance of their functions under the Act.

3 STANDARDS OF CONDUCT

The Standards of Conduct to be observed by Councillors are set out in the Regulations. Failure to comply with the Standards of Conduct constitutes 'misconduct' for the purposes of the Act. If allegations of misconduct cannot be resolved between Councillors informally, they will be referred to the internal arbitration process, which may result in the imposition of sanctions.

3.1 Treatment of others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor:

- a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the Equal Opportunity Act 2010 ; and
- b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and
- c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

3.1.1 Discrimination

Discrimination can be direct or indirect.

Direct discrimination occurs if a person treats another person with a protected attribute unfavourably because of that protected attribute.

Some examples of direct discrimination are:

- Not offering computer training to an older Councillor because of their age and a view that they will not be involved in Council for much longer.
- Excluding a Councillor from participation on a Committee because of a protected attribute, for example, their religious belief or age.

Indirect discrimination occurs if a person imposes a requirement, condition or practice that disadvantages a person with a protected attribute and that requirement, condition or practice is not reasonable.

Some examples of indirect discrimination are:

- Holding a Council team building event at a sporting venue that does not permit access or participation by a Councillor with a disability.
- Making it a requirement that Councillors be members of a political party in order to be a member of a committee. Unlawful discrimination can occur even if a Councillor does not intend to discriminate.

3.2 Performing the role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor:

- Undertakes any training or professional development activities that Council decides it is necessary for all Councillors to undertake to effectively perform the role of a Councillor.

- Diligently uses Council processes to become informed about matters which are subject to Council decisions.
- Is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity.
- Represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

3.3 Compliance with good governance measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of Council, must diligently and properly comply with the following:

- Any policy, practice or protocol developed and implemented by the CEO in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors.
- The Council expenses policy adopted and maintained by Council under section 41 of the Act.
- The Governance Rules developed, adopted and kept in force by Council under section 60 of the Act.
- Any directions of the Minister for Local Government issued under section 175 of the Act (governance directions).

3.4 Councillor must not discredit or mislead Council or public

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

- Ensure that their behaviour does not bring discredit upon Council.
- Not deliberately mislead Council or the public about any matter related to the performance of their public duties.

3.5 Standards do not limit robust political debate

Councillors acknowledge that nothing in the Standards of Conduct is intended to limit, restrict or detract from robust public debate in a democracy. So, while Councillors must always meet these Standards of Conduct, participation in vigorous debate of matters before Council for decision should not be viewed as being inconsistent with them.

4 OTHER PROHIBITED CONDUCT

In addition to observing the Standards of Conduct, Councillors acknowledge that the Act prohibits them from engaging in certain conduct and that doing so constitutes a criminal offence. This conduct relates to:

- Misuse of position.
- Improper direction and improper influence.
- Confidential information.
- Conflict of interest.
- Electoral conduct.

4.1 Binding Caucus votes

A binding caucus vote is a process whereby a group of Councillors are compelled by a threat of

disciplinary or other adverse action to comply with a predetermined position on a matter before the Council, irrespective of the personal views of individual members of the group on the merits of the matter before the Council.

Nevertheless, Councillors are not prohibited from discussing a matter before the Council prior to considering the matter in question at a Council meeting, or from voluntarily holding a shared view with other Councillors on the merits of a matter.

However Councillors must not participate in binding caucus votes in relation to matters to be considered at a Council meeting.

4.2 Misuse of position

A Councillor must not misuse his or her position:

- To gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person.
- To cause, or attempt to cause, detriment to Council or another person.

Circumstances involving the misuse of position by a Councillor include, but are not limited to:

- Making improper use of information acquired as a result of the Councillor's position (current and past).
- Disclosing information that is confidential information.
- Directing, or improperly influencing or seeking to direct or improperly influence, a member of Council staff.
- Exercising or performing, or purporting to exercise or perform, a power, duty or function that the Councillor is not authorised to exercise or perform.
- Using public funds or resources in a manner that is improper or unauthorised.
- Participating in a decision on a matter in which the Councillor has a conflict of interest.

4.3 Directing a member of Council staff

A Councillor must not intentionally direct, or seek to direct, a member of Council staff

- In the exercise of a delegated power, or the performance of a delegated duty or function of Council.
- In the exercise of a power or the performance of a duty or function exercised or performed by the staff member as an authorised officer under the Act or any other Act.
- In the exercise of a power or the performance of a duty or function the staff member exercises or performs in an office or position the staff member holds under the Act or another Act.
- In relation to advice provided to Council or a delegated committee, including advice in a report to Council or delegated committee.

4.4 Confidential information

A Councillor must not intentionally or recklessly disclose information that the he or she knows, or should reasonably know, is confidential information.

For the purposes of the Act 'confidential information' means the following information:

- Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.
- Security information, being information that if released is likely to endanger the security of Council property or the safety of any person.
- Land use planning information, being information that if prematurely released is likely to

encourage speculation in land values.

- Law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person.
- Legal privileged information, being information to which legal professional privilege or client legal privilege applies.
- Personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.
- Private commercial information, being information provided by a business, commercial or financial undertaking that:
 - Relates to trade secrets.
 - If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
- Confidential meeting information, being the records of meetings closed to the public under the Act.
- Internal arbitration information, being information specified in section 145 of the Act.
- Councillor Conduct Panel confidential information, being information specified in section 169 of the Act.
- Information prescribed by regulations to be confidential information for the purposes of the Act.
- Information that was confidential information for the purposes of section 77 of the Local Government Act 1989.

A Councillor may disclose information that would be considered 'confidential information' if the information that is disclosed is information that Council has determined should be publicly available.

Otherwise, a Councillor may disclose information that the he or she knows is confidential information in the following circumstances:

- For the purposes of any legal proceedings arising out of the Act.
- To a court or tribunal in the course of legal proceedings.
- Pursuant to an order of a court or tribunal.
- In the course of an internal arbitration and for the purposes of the internal arbitration process.
- In the course of a Councillor Conduct Panel hearing and for the purposes of the hearing.
- To a Municipal Monitor to the extent reasonably required by the Municipal Monitor.
- To the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector.
- To a Commission of Inquiry to the extent reasonably required by the Commission of Inquiry.
- To the extent reasonably required for any other law enforcement purposes.

Councillors acknowledge that they will have access to confidential information in many forms and that it will not always be labelled as being 'confidential'. Councillors will take reasonable steps to inform themselves about the confidential nature of any Council information before discussing it outside the organisation.

5 CONFLICT OF INTEREST

5.1 Disclosure of conflicts of interest

If a Councillor has a conflict of interest in a matter which is to be considered or discussed at a meeting of Council or a delegated committee, a meeting of a community asset committee, or any other meeting held under the auspices of Council, the Councillor must, if he or she is attending the meeting, disclose the conflict of interest in accordance with the Governance Rules (unless any of the exemptions apply) and exclude themselves from the decision making process in relation to the matter

A Councillor may have a 'general' or a 'material' conflict of interest in a matter being considered at a meeting.

A Councillor has a 'general' conflict of interest in a matter if an impartial, fair-minded person would consider that the Councillor's private interests could result in the Councillor acting in a manner that is contrary to their public duty.

For the purposes of general conflict of interest:

- 'private interests' means any direct or indirect interest of a Councillor that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.
- 'public duty' means the responsibilities and obligations that a Councillor has to members of the public in their role as a relevant person.

A Councillor has a 'material' conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

The benefit may arise or the loss incurred:

- directly or indirectly; or
- in a pecuniary or non-pecuniary form.

For the purposes of a material conflict of interest, any of the following is an 'affected person':

- The Councillor.
- A family member of the Councillor.
- A body corporate of which the Councillor or their spouse or domestic partner is a Director or a member of the governing body.
- An employer of the Councillor, unless the employer is a public body.
- A business partner of the Councillor.
- A person for whom the Councillor is a consultant, contractor or agent.
- A beneficiary under a trust or an object of a discretionary trust of which the Councillor is a trustee.
- A person from whom the Councillor has received a disclosable gift (i.e. exceeding \$500 in value).

5.2 Personal responsibility

Councillors acknowledge that they must be clear about their associations with parties external to Council and to avoid conflict between those associations and their role as Councillors.

It is the personal legal obligation of every Councillor to form her or his own view as to whether a conflict of interest exists, and to disclose any such conflict. Councillors are able to seek their own independent legal advice in relation to any of their conflict of interest matters. Council will not be liable for any legal costs incurred by a Councillor who seeks independent legal advice about

whether they have a conflict.

The process for disclosing a conflict of interest is contained in Chapter 5 of the Brimbank Governance Rules – Disclosure of Conflicts of Interest

6 OTHER CONDUCT REQUIREMENTS

Councillors acknowledge that, while these matters are not Standards of Conduct they undertake to comply with them.

In the case of non-compliance, these matters could be the subject of an application to a Councillor Conduct Panel made by the Chief Municipal Inspector, or of a complaint to the Local Government Inspectorate, the Independent Broad-based Anti-corruption Commission or Victoria Police, depending on the nature of the allegation.

Councillors agree:

6.1 Conduct based on race and religion

Not to engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, a person or group of persons on the basis of their race or religious belief. Serious racial or religious vilification involves a threat to harm another person or their property and is a criminal offence.

6.2 Conduct considered bullying

Not to participate in unreasonable behaviour that may be considered bullying, such as repeated:

- Verbal abuse, insults or name-calling
- Personal attacks, threats, intimidation
- Deliberate exclusion or isolation
- Deliberately withholding information from someone where that information is essential to their ability to perform their work effectively.
- Any form of bullying that occurs online.

6.3 Interactions with Members of Parliament

Councillors (or a Councillor representing a group of Councillors) will:

- Declare and record any representations made to her/him, or by them, in their role as a Councillor, to/by a Member of Parliament (or their staff or a candidate in a State or Federal Government election) by completing an Interaction with Member of Parliament form.
- Advise the Member of Parliament (or their staff or candidate) that the representation, and topics discussed, will be publicly reported to Council.

The Chief Executive Officer will ensure a record of the meeting is reported to the next practicable Council Meeting.

6.4 Meeting with planning permit applicants

When planning to discuss a planning permit application or amendment with an applicant, property owner, or their representative, it is mandatory to complete the Informal Planning Meeting Record. This helps document all interactions. All such meetings must be recorded in the Informal Planning

Meeting Record. Moreover, the Chief Executive Officer must make sure that a record of the meeting is reported to the next available Council Meeting.

6.5 Fitness for duties

Councillors will promptly inform the Mayor/CEO of any physical or psychological concerns that may affect their ability to perform their role and will also consider taking a leave of absence, if necessary, to prioritise well-being. The Mayor may also suggest a leave of absence if they have concerns about a Councillor's health.

6.6 Interacting with children

Council is committed to protecting children and young people from harm and adheres to the Victorian Child Safe Standards and related legislation. Councillors will maintain professional conduct, support child safety, and take necessary steps to protect children to fulfill the obligations imposed by the Victorian Child Safe Standards.

7 GOOD GOVERNANCE

Nothing in this part of the Code is intended to impose a binding Standard of Conduct on Councillors. These matters are expressed as operating in addition to the Standards of Conduct. Further, nothing in this part of the Code is intended to modify or derogate from the Standards of Conduct.

This part of the Code sets out conduct that the Councillors agree will contribute to the good governance, integrity and responsible operation of Council.

7.1 Overarching Governance Principles

Councillors will support the role of Council by ensuring that Council gives effect to the overarching governance principles when participating in Council's decision-making functions.

The overarching governance principles are set out in section 9(2) of the Act and are as follows:

- Council decisions are to be made and actions taken in accordance with the relevant law.
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.
- The municipal community is to be engaged in strategic planning and strategic decision making.
- Innovation and continuous improvement is to be pursued.
- Collaboration with other councils and governments and statutory bodies is to be sought.
- The ongoing financial viability of Council is to be ensured.
- Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.
- The transparency of Council decisions, actions and information is to be ensured.

7.2 Council decision-making

Councillors are committed to ensuring a high level of transparency in Council's decisions and Council's decision-making processes. Councillors acknowledge that Council decisions cannot be made other than by resolutions made at properly constituted Council meetings following fulsome

public debate in the Council Chamber. While Councillors will engage in informal discussion of matters coming before Council for decision, they acknowledge that these informal discussions are not decision-making forums, and that a final position on such matters cannot be reached before the Council meeting.

Councillors acknowledge the role that reports prepared by members of Council staff provide professional advice which assists in informing Councillors about matters before Council for decision. Councillors will pay respect and attention to the information provided by members of Council staff to assist Council's decision-making functions.

7.3 Use of Council resources

Councillors commit to using Council resources effectively, economically and only for proper purposes connected with their role as a Councillor, consistent with relevant Council policies and procedures.

In particular, Councillors will:

- Maintain adequate security over Council property, facilities and resources provided by Council to assist in performing their role.
- Comply with any legislation and Council policies and procedures applying to the use of Council property, facilities and resources provided by Council to assist in performing their role.
- Not use Council resources, including the services of members of Council staff, for private purposes, unless authorised to do so, and paying for those resources where required to do so.
- Not use public funds or resources in a manner that is improper or unauthorised.

7.4 Gifts and benefits

Councillors will avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefit or hospitality of any kind, is attempting to gain favorable treatment from an individual Councillor or from Council.

Councillors will take all reasonable steps to ensure that their immediate family members do not receive gifts or benefits that give rise to the appearance of an attempt to gain favourable treatment.

Councillors will only accept gifts that exceed the gift disclosure threshold (at the time of this review it is \$500 or a higher amount or value prescribed by the Regulations) if:

- the name and address of the person making the gift are known to them; or
- at the time when the gift is made, they reasonably believe that the name and address provided are the true name and address of the person making the gift.

Anonymous gifts that exceed the gift disclosure threshold will be disposed of to Council within thirty (30) days of receiving the gift.

Councillors will comply with the Councillor Gifts, Benefits and Hospitality Policy, and any other policies and procedures however termed, adopted by Council from time to time relevant to the acceptance of gifts.

7.5 External communications

Councillors recognise that, as representatives of the local community, they have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.

Councillors are committed to respecting the function of the Mayor as the spokesperson of Council in accordance with the Act.

Councillors undertake to comply with Council's Media and Spokesperson Policy and any other relevant policies, as adopted from time to time, including recognition of and respect for the:

- Role of the Mayor as the principal spokesperson of Council, including in communications with the media on behalf of Council.
- Role of the CEO in communicating with the media on behalf of Council with respect to matters of an operational nature.
- Practice of directing media enquiries to Council's Communications Team at first instance.

Councillors acknowledge that individual Councillors are entitled to express their personal opinions through the media. In doing so, Councillors will make it clear that such comment is their personal view and does not represent the position of Council.

Councillors will ensure that such comments avoid being derogatory, offensive or insulting of Council, Councillors, members of Council staff, members of the community and others and are factually accurate.

7.6 Personal dealings with Council

When Councillors deal with Council in their private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit), they will not expect or request preferential treatment in relation to any such private matter. Councillors will avoid any action that could lead members of Council staff or members of the community to believe that they are seeking preferential treatment.

7.7 Occupational health and safety

Councillors acknowledge that meeting Council's obligations as an employer under the *Occupational Health and Safety Act 2004* by, among other things, providing a safe workplace for members of Council staff and visitors to Council premises is essential.

Councillors are committed to working in ways that protect and promote the health and safety of members of Council staff and visitors to Council premises and to minimise risks to them.

7.8 Elections

Councillors may nominate as candidates in elections at all levels of government. If nominating as a candidate in an election, or assisting in the campaign of a candidate in an election, Councillors commit to not using their position as a Councillor for purposes associated with their campaign, or the campaign of any other candidate.

8 CITY REPRESENTATION

8.1 Representation Overview

Opportunities for the Mayor, Deputy Mayor and Councillors to represent the City will arise through a range of mechanisms including advocacy, media activity, event attendance and contribution to external publications.

The hierarchy for determining the appropriate Council spokesperson or representative, is at Table 1.

Table 1 – Spokesperson or Representative Tiers

Tier	Spokesperson Or Representative
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1	Mayor / Deputy Mayor
2	Appropriate Representative (Advisory Committee representative)
3	Ward Councillors, operating on a rotational basis

Where requested by a community group/organisation, and as appropriate, Councillors with culturally and linguistically diverse backgrounds may be invited by the Mayor to speak in their community language at an event, in addition to the nominated Councillor spokesperson (Table 1).

The following protocols outline the processes by which opportunities will be progressed and allocated. As a general rule, when making an allocation, the key message or subject matter associated with an opportunity will dictate which Advisory Committee it falls within.

Where there is potential Advisory Committee overlap, an opportunity will be referred to relevant Advisory Committee representative for a decision. If no agreement can be reached, or if the Mayor is unable to be contacted within deadline, or where the decision of the Media and Communications team or the Councillor Support Team is (or is likely to be) disputed, the Director People, Partnerships and Performance shall be the referral point and final decision maker.

8.2 Representation Protocol

The following protocol acknowledges the Mayor is the principal spokesperson for the Council and that exceptions will only be made as specified below or on the basis of the professional judgement of the Communications, Community Engagement Department (Media Team).

In particular, the Mayor is the official media spokesperson on behalf of Council, where Council has an official position on the matter and where the matter is of a political, controversial, sensitive or emergency nature.

These include:

- Issues relating to the strategic direction of Council and Brimbank City Council
- Issues relating to policy and Council decisions
- State-wide or Federal political issues affecting local government
- Local issues that impact the community that do not relate directly to Council services and functions
- Announcements or commentary relating to premier events, major projects or key community infrastructure being undertaken by Brimbank City Council

If the Mayor is unavailable as spokesperson or has a conflict of interest in relation to the matter, the Deputy Mayor will become the primary spokesperson. If the Deputy Mayor is not unavailable or has a conflict of interest in relation to the matter, the appropriate Advisory Committee representative will be approached to be the primary spokesperson. On occasion and at the discretion of the CEO or delegate, the tier process may be supplanted by a decision to nominate a particular Councillor as spokesperson on the basis of newsworthiness, an acknowledged association with the issue or other factors. An example may be in a case where a conflict of interest prevents the Mayor from being a spokesperson, in which case the appropriate Councillor member of an Advisory Committee may supersede the Deputy Mayor. In such cases, approval to deviate from the standard protocol would be sought from the Mayor.

See Table 1 above for further information on Spokesperson tiers.

A Councillor acting as an authorised spokesperson in line with this protocol has a responsibility to represent Council position in relation to a matter. If that Councillor wishes to express a personal view which differs from an adopted position, they are obliged to identify that the opinion or view is their own, and does not represent the position of Council; nor should that view be expressed in the

context of a spokesperson opportunity facilitated by Brimbank City Council.

8.3 Chief Executive Officer representation

The Chief Executive Officer is the official spokesperson for all operational matters relating to Brimbank City Council, including:

- Staffing and structure of the organisation
- Corporate issues relating to service provision or the day-to-day business of Council.

The Chief Executive Officer may delegate their media authority to a Council Officer.

8.3.1 Delegations

Council Officers delegated to make statements to the media or authorise the issue of media releases are:

- Chief Executive Officer
- Directors
- Manager Media & Communications

8.4 Media Enquiries

For the purposes of this section, approaches from the media are categorised into three types:

- Where the media contacts a Councillor directly (type A)
- Where the media contacts Brimbank City Council requesting a comment specifically from the Mayor or an individual Councillor (type B)
- Where the media contacts Brimbank City Council requesting general comment or information without specifying the preferred respondent (type C).

All media enquiries, whether received by the Mayor, other Councillors or Council officers, should be directed to the Media Team. Media enquiries should be treated as a priority, with requests passed onto the Media Team as soon as is practicable after receipt, and conducted in accordance with this policy.

The Media Team will deal with media inquiries and the delegation of media enquiries/comment in accordance with this policy. It will provide appropriate advice on how to respond to media enquiries and draft official comments.

Where the media contacts the Mayor or a Councillor directly (type A), they should make no comment on behalf of Council, advise the media that the Media Team will make contact, and inform the Media Team as soon as practicable.

Where the media contacts Brimbank City Council requesting a comment from, or an interview with, the Mayor or a particular Councillor (type B), the Media Team will determine who should be spokesperson, advise the appropriate media outlet and act accordingly (either through providing an approved written response such as a media statement or quote, or producing materials such as FAQs in preparation for an interview with spokesperson).

Where the media contacts Brimbank City Council requesting a response from an unspecified spokesperson or is otherwise seeking a comment from Brimbank City Council (type C), the Media Team will establish the most appropriate spokesperson according to the order of priorities specified in Table 1 such that if and when the first priority for a spokesperson is reasonably determined by the Media Team to be unavailable or otherwise declines to be the spokesperson, the second priority for spokesperson will be approached, and so on.

Table 1 only applies to situations which are not related to operational matters. In operational matters, the spokesperson will be the CEO or a Council official delegated to act as spokesperson by

the CEO.

Table 1 also assumes two circumstances in which a graduation to the next tier would occur:

- Unavailability of the Mayor or appropriate Councillor
- A conflict of interest where it is inappropriate for the Mayor or appropriate Councillor to speak on the issue
- On occasion and at the discretion of the CEO or delegate, the tier process may be supplanted by a decision to nominate a particular Councillor as spokesperson on the basis of newsworthiness, an acknowledged association with the issue or other factors.

An example may be in a case where a conflict of interest prevents the Mayor from being a spokesperson, in which case the appropriate Advisory Committee representative may supersede the Deputy Mayor. In such cases, approval from the standard protocol would be sought from the Mayor.

8.5 Photo opportunities

Where the request from media is for a photo opportunity, the same protocols and tiered approach will apply. Only the Mayor can participate in a formal, scheduled photo opportunity with media except for reasons of unavailability or conflict of interest.

At the discretion of the CEO or appropriate Council Officer (Director, Manager Media & Communications), other Councillors may participate in a photo opportunity as well, subject to the Mayor's approval, including for cultural publications.

It is acknowledged that photo opportunities at events will often be of an informal and unscheduled nature in which participation by multiple Councillors will be inevitable and encouraged. The protocol above applies only to scheduled photo opportunities as requested by media.

8.6 Generating media

Media Releases will be proactivity issued by the Brimbank City Council on a regular basis to assist media and community understanding of a Council position in relation to any matter. In creating and issuing Media Releases, the following protocol will apply:

- The Media Team will determine who is to be quoted, in accordance with Table 1.
- The Media Team will determine key quotes in consultation with the appropriate Directorate and then seek approval from the Mayor and/or any Councillor being quoted.
- The Media Team will circulate final copies of all Media Releases to all Councillors.

8.7 Communications and Community Engagement Department support to Councillors

If a Councillor wishes to express a personal view to media which differs from an adopted position, they are not acting as the authorised spokesperson on Council matters or positions as described in this protocol, and therefore the Media Team's resources are not available to them.

The Media Team aims to ensure that all Councillors are kept informed and updated on media issues relating to Brimbank City Council. In doing so, a Brimbank Council Media Report will be issued each week, and other ad hoc updates will be provided as extraordinary circumstances require.

A member of the Media Team will generally accompany the Mayor or other Councillor, if required, when interviews or photo opportunities are being conducted.

Opportunities to contribute to publications produced by external sources (e.g. articles) will entail preparation of appropriate content by the Media Team under the byline of the Mayor or, if appropriate, the relevant spokesperson as indicated in Table 1.

8.8 Social Media Use by Councillors

Social media provides opportunities for dynamic and interactive two-way communication between

Councillors and their constituents. Social media is not considered any different from existing personal communications (e.g., email, letter, face to face conversation) that Councillors engage in. Brimbank City Council acknowledges that Councillors will have and manage their own social media accounts. These communications activities do not require approval from Council officers. However, the following broad principles will apply to personal social media use:

- Councillors must not represent their views and opinions on personal social media accounts as being the official views of Brimbank City Council, unless in accordance with agreed and published Council policy.
- Councillors should not use personal social media accounts to comment on Council matters which are confidential in nature.
- Councillors should not use personal social media accounts to publicly dispute or rebuke the views of other Councillors or Council Officers.
- Councillors should not use personal social media accounts to indicate their disagreement with agreed and published Council policy.

Where Councillors publish social media content in a personal capacity from personal accounts that makes reference to Brimbank City Council, its staff, policies or services, its suppliers or other stakeholders, or any Council-related issues, that content will be considered to be bound by the requirements of Brimbank City Council in regard to social media use.

In such instances, the following content is not permitted under any circumstances nor limited to:

- Abusive, profane or sexual language
- Content not relating to the subject matter of that blog, board, forum or site.
- Content which is false or misleading
- Confidential information about Council or third parties
- Copyright or trademark protected materials.
- Discriminatory material in relation to a person or group based on age, colour, creed, disability, family status, gender, nationality, marital status, parental status, political opinion/affiliation, pregnancy or potential pregnancy, race or social origin, religious beliefs/activity, responsibilities, sex or sexual orientation
- Illegal material or materials designed to encourage law breaking
- Materials that could compromise Council, employee or system safety
- Materials which would breach applicable laws (defamation, privacy, trade practices, rules and regulations, fair use, trademarks)
- Material that would offend contemporary standards of taste and decency
- Material which would bring the Council into disrepute
- Personal details or references to Council staff or third parties which may breach privacy laws
- Spam, meaning the distribution of unsolicited bulk electronic messages
- Statements which may be considered to be bullying or harassment.

For the purposes of this policy, social media encompasses but is not limited to the following digital spaces where people may comment, contribute, create, forward, post, upload and share content:

- Websites
- Emails
- Blogs
- Bulletin boards

- Citizen journalism and news sites
- Forums and discussion boards
- Instant messaging facilities
- Micro blogging sites (e.g. Threads, X)
- Online encyclopedias (e.g. Wikipedia)
- Podcasts
- Social networking sites (e.g. Facebook, Instagram, WeChat, TikTok, LinkedIn)
- Video and photo sharing sites (e.g. Flickr, YouTube)
- Wikis

Any other websites that allow individuals to use simple publishing tools or new technologies emerging from the digital environment.

As the personal views of Councillors are usually likely to be associated by external audiences with the views of Council, Councillors will be held to a high degree of responsibility in regards to personal use of social media.

Council social media sites that have been set up by Council officers are considered official channels of Council, and current conventions applied to existing communications channels apply. These conventions include the Mayor being the nominated spokesperson of Council, except where the tiered approach in Table 1 is utilised.

8.9 Representing Council at Civil Events, Functions and Delegations

8.9.1 Opportunities generated through Council organised, partnered and sponsored events

As chief representative and spokesperson for Council, the Mayor is given first opportunity to formally represent Council at functions and events organised, partnered or sponsored by Brimbank City Council.

An event organised by Council is one that is a designated Brimbank City Council event – e.g. the opening of a facility, a policy announcement, a cultural or community event.

An event partnered by Council would usually be one that has been instigated by a State or Federal Government Department or Minister's office for the purpose of a joint media announcement or one with particular relevance to Brimbank City Council.

An event sponsored by Council is one with Brimbank City Council funding or in-kind support towards the staging of an event or function. This does include funding provided through the purchase of tickets or seating at events and functions once the event has been announced and promoted.

For functions and events organised, partnered or sponsored by Brimbank City Council where the Mayor is unavailable, the invitation is first forwarded to the Deputy Mayor, then the relevant Portfolio Champion if the Deputy Mayor is also unavailable, then via the same tiered process outlined in Table 1.

On occasion and at the discretion of the CEO, the tier process may be supplanted by a decision to nominate a particular Councillor as an event representative on the basis of newsworthiness, an acknowledged association with the event or other factors. In such cases the Mayor's approval would be sought.

8.9.1.1 Speeches

All civic events commitments are placed in the appropriate representative's diary by Councillor Support, which then submits a speech request to the Communications and Community Engagement

Department.

A speech request is required, in normal circumstances, six weeks prior to the event taking place. Additional time will be required if translations are needed.

Speechwriting support is only offered for events where the Mayor has accepted to speak.

If a Councillor attending an event in their official role is invited to speak ad hoc at the event, they are able to do so, but must inform the Mayor and Manager Governance and Risk afterwards.

Speechwriting support is not able to be provided for Councillors who wish to speak at functions outside of their official role as a Brimbank City Council representative.

8.9.1.2 MC Role

A distinction is made, for the purposes of Council organised, partnered and sponsored events, between the Mayor or a Councillor providing formal representation, and another individual serving as the Master of Ceremonies (MC) for the event.

An MC may be the CEO, a Council officer (e.g. a Director) or a non-Council individual serving in the role for reasons of professional experience and appropriateness (e.g. a professional entertainer or speaker at a cultural event). The role of the MC will include introducing the Mayor or relevant Councillor to conduct their ceremonial role and/or provide a speech. The role of MC is not intended to supplant any of the formal or ceremonial aspects of a Mayor or Councillor, nor would it be represented as such.

8.9.1.3 Running Sheet

All Councillors formally attending an event where Council's participation includes the preparation of a Running Sheet should familiarize themselves with that Running Sheet prior to the event and be familiar with:

- The protocols that will apply at the event
- The restrictions that may apply on participation in photo opportunities – i.e. an event partnered with the State Government may require that only the Mayor participate in a photo or video opportunity with the relevant Minister
- The formal or ceremonial roles that Councillors may be requested to play.

8.9.2 Opportunities received directly by Councillors and Council from external sources

8.9.2.1 Invitations received by the Mayor

As the chief representative of Council, the Mayor will be approached by stakeholders to participate in events, functions and activities important and relevant to Brimbank. Such requests will be considered by Councillor Support in the first instance.

Councillor Support will liaise with the appropriate Directorate to assess the importance and relevance of the event, and the appropriateness of formal Council attendance, participation and contributions (e.g. speech or ceremonial role). It will be at the discretion of the appropriate Director, with reference to the CEO as appropriate, to determine if Council should play such a role.

If the nature of the event suggests it may be valuable to have Brimbank City Council participation and the Mayor is unavailable, the event organiser will be approached by Councillor Support regarding representation by another Councillor. If the event organiser agrees, the opportunity will be referred to the Deputy Mayor in the first instance. If unavailable, the opportunity will be offered to other Councillors via the same tiered process outlined in Table 1.

8.9.2.2 Invitations received by the Deputy Mayor and Councillors

The Deputy Mayor and Councillors will receive invitations in an individual capacity to represent Council. These may be received in acknowledgement of portfolio or cultural responsibilities or in

response to established relationships with city stakeholders.

If the event is one in which the Councillor would not be formally representing Council, but attending on the basis of personal relationships with stakeholders or within the community, there would be no formal Council involvement or contribution. The Councillor should not represent themselves as attending or participating in the event on behalf of Brimbank City Council.

If the event is one in which the Councillor would be formally representing Council, Councillors will forward the details to Councillor Support, which will liaise with the appropriate Directorate to assess the importance and relevance of the event.

If a Councillor receives an invitation to a cultural or specific interest event, they will send the invitation to Councillor Support. Councillor Support will liaise with the appropriate Directorate to assess the relevance of the event, and appropriateness of formal Council attendance.

Councillor Support will provide all invitations to the Mayor for their assessment and/or approval, in accordance with the Councillor Support Policy requirements. If approved, Councillor Support will advise the Councillor. If not approved, the Mayor will discuss their decision with Councillor directly.

If the event is deemed appropriate for that Councillor's attendance and contribution (e.g. speech), Councillor Support will confirm the commitment with the event organiser on behalf of the Councillor. If the opportunity is transferable, Councillors should consider referring the invitation to the relevant Portfolio Councillor.

8.9.2.3 Invitations received by Council

Where an external source approaches Council directly with a view to seeking representation by a Councillor, Councillor Support will first liaise with the appropriate Directorate to assess the importance and relevance of the event. If it is deemed suitable, the Mayor will first be approached. If the Mayor declines the invitation and an alternative Councillor is considered acceptable to the organising body, the opportunity will be offered to other Councillors via the same tiered process outlined in Table 1.

8.9.2.4 Support for Councillor Representation

In representing Council at events, functions and delegations, Councillors may require support in the form of speech notes, presentations and background information. This support shall be arranged through Councillor Support, who will forward the relevant requests to the Communications Team.

8.9.2.5 Access to tickets for Council organised or sponsored events

As the organiser or sponsor of a number of key cultural, community, business and sporting events in Brimbank, there will be ticketing opportunities for Councillors, the administration and stakeholders.

It is important to have a transparent and accountable system of allocation of tickets. The process supporting allocation allows Council to use tickets in a strategic way to maximise the profit and relationship opportunities for Brimbank City Council and shall be guided by the following principles:

- The need to ensure Council is appropriately represented at all sponsored and organised events
- That City representation involves participation of Councillors and senior Council officers
- That where limited tickets are available in the proposed allocation to Councillors, priority shall be given to the Mayor, Deputy Mayor and relevant Portfolio Champion
- Ticketing should be used for the primary purpose of further developing and enhancing Council relationships with stakeholders, and so Council officer representation may also occur
- Allocated tickets should be used. Unused tickets represent a loss in profit and stakeholder

relationship opportunities

All other event attendance and ticketing in relation to procuring a 'table' for Council will be dealt with in accordance with the Councillor Support Policy.

8.9.2.6 Requests for Council support or funding for events

Councillors approached for Council support or funding for events and activities must first raise the matter with the relevant Director for consideration in accordance with Council policy and guidelines under specific programs and projects. These policies and guidelines ensure that assessment processes are fair, transparent and accountable.

8.10 Mayoral robe and chain

The Mayoral robe and chain signify the office of the Mayor. The Mayor may choose to wear one or both at official functions of the Council. The Mayor will act as custodian of the robe and chain, and liaise with Councillor Support to make any necessary security arrangements.

Given its significant value, the chain is only able to be worn at functions held at the Brimbank Council Offices, Citizenship ceremonies, school visits, or where appropriate security measures are in place.

9 INTERPERSONAL DISPUTES BETWEEN COUNCILLORS

Councillors acknowledge that interpersonal differences and disputes (as distinct from allegations of contravention of the Standards of Conduct) may arise from time to time. Councillors commit to taking reasonable steps to resolve any interpersonal difference or dispute that arises without recourse to formal processes with a view to maintaining effective working relationships.

In resolving interpersonal differences or disputes, Councillors will consider pursuing informal steps, including 7.1 and 7.2.

9.1 Informal discussions between Councillors

Councillors will first consider discussing their interpersonal difference or dispute informally with a view to resolving it.

9.2 Facilitated discussion

If Councillors are unable to discuss their interpersonal difference or dispute informally, or their informal discussions are unsuccessful, they will consider approaching a fellow Councillor, chosen with the agreement of both Councillors, to facilitate a discussion with a view to resolving their interpersonal difference or dispute.

If the interpersonal difference or dispute cannot be resolved informally, the Councillors will consider whether any of the conduct giving rise to it constitutes a contravention of the Standards of Conduct. If they consider that it does, they may choose to pursue it as such under part 8 of this Code.

10 ALLEGATIONS OF CONTRAVENTION OF THE CODE

An allegation that this Code has been breached by a Councillor can be made by:

- Council, by resolution.
- a Councillor.

- a group of Councillors.

Where an allegation is made by Council or by a group of Councillors, a single Councillor must be nominated to act as the representative of Council or the group of Councillors (as the case may be) in the internal resolution process. Only that Councillor will be entitled to participate in the internal resolution process.

When an allegation of a breach of this Code is alleged, the Councillors who are party to the allegation undertake to use their best endeavours to resolve it in a courteous and respectful manner without recourse to formal processes under this Code or under the Act. If, after these endeavours have been exhausted, the allegation remains unresolved, either or both of the Councillors may have recourse to any or all of the internal resolution processes set out in this Code.

Councillors accept the following three-phase internal resolution process:

- Formal discussion between the Councillors, facilitated by the Mayor or, if the Mayor is involved in the allegation, the Deputy Mayor or, if both the Mayor and the Deputy Mayor are involved in the allegation, the most recent past Mayor.
- Formal mediation between the Councillors, facilitated by a qualified mediator.
- Formal internal arbitration process.

Councillors recognise that the first and second phases are voluntary and that they are not obliged to agree to either of them but will endeavour to resolve allegations without resorting to the mandatory internal arbitration process.

10.1 The application

An application alleging a breach of this Code must:

10.1.1 include the:

- a) name of the Councillor(s) alleged to have committed the breach;
- b) clause(s) of the Code alleged to have breached;
- c) particular misconduct, or behaviour, that the Councillor(s) is/are alleged to have engaged in that resulted in the breach; and
- d) phase of the internal resolution process being pursued by the Councillor making the allegation at the first instance; and

10.1.2 be submitted to the Councillor Conduct Officer for:

- a) action, if the application seeks engagement in the first or second phase of the internal resolution process; or
- b) referral to the Principal Councillor Conduct Registrar, if the application seeks a formal internal arbitration process.

If an application received by the Councillor Conduct Officer does not meet the requirements of this Part 10.1, the Councillor Conduct Officer will return it to the Councillor submitting it with a brief statement of the ways in which the application is deficient.

A Councillor may revise and resubmit to the Councillor Conduct Officer a deficient application, provided that the Councillor submits the revised application no later than 3 months after the alleged breach of the Standards of Conduct occurred (see s 143(3) of the Act).

10.2 Process on receiving an application

10.2.1 Application for a facilitated discussion

On receiving an application from a Councillor which meets the requirements of Part 9.1 of this Code and which seeks a facilitated discussion, the Councillor Conduct Officer will take the

following steps:

- a) notify Mayor or, if the Mayor is involved in the allegation, the Deputy Mayor or, if both the Mayor and the Deputy Mayor are involved in the allegation, the most recent past Mayor (as the case may be) and the CEO (for the CEO's information only) and provide them with a copy of the application;
- b) notify the Councillor(s) the subject of allegation in the application and provide them with a copy of the application;
- c) request the Councillor(s) the subject of the application to advise whether they will participate in the facilitated discussion within 5 days of receiving the application, noting that, if no advice is received, the Councillor(s) will be taken to have declined;
- d) if the Councillor(s) agree/s to participate in the facilitated discussion:
 - i. the Councillor Conduct Officer will, with the cooperation of the Councillors involved in the application and the Mayor or, if the Mayor is involved in the application, the Deputy Mayor or, if both the Mayor and the Deputy Mayor are involved in the application, the most recent past Mayor (as the case may be), arrange a suitable time and place for the facilitated discussion, to be no later than 5 days from the date of the advice provided under paragraph (c);
 - ii. the facilitated discussion must be completed with the Mayor or, if the Mayor is involved in the application, the Deputy Mayor or, if both the Mayor and the Deputy Mayor are involved in the application, the most recent past Mayor (as the case may be) providing a record of the outcome to the Councillors involved in the application and the CEO no later than 5 days after the discussion takes place; and
 - iii. if the facilitated discussion is not complete within 5 days of the date nominated for it to take place, the Councillors will be taken as not having agreed to participate in a facilitated discussion, unless both Councillors agree to extend the time for completion;
- e) if the facilitated discussion is not completed in accordance with this Part 9.2.1 for whatever reason, or if the facilitated discussion does not resolve the allegation the subjection of the application, the Councillor Conduct Officer will advise the:
 - i. Councillor making the application and ask the Councillor(s) to advise whether they wish to escalate the matter to another phase of the internal resolution process and, if so, which phase;
 - ii. Councillor the subject of the application; and
 - iii. CEO; and
- f) the Councillor Conduct Officer will make arrangements to close or to escalate the application, as the case may be, according to the advice of the Councillor making the application.

10.2.2 Mediation

On receiving an application from a Councillor which meets the requirements of Part 9.1 of this Code and which seeks a mediation, or on escalating an application where a facilitated discussion has not been completed or has not resolved the allegation, the Councillor Conduct Officer will take the following steps:

- a) notify the CEO and provide them with a copy of the application;
- b) notify the Councillor(s) the subject of allegation in the application and provide them with a copy of the application;
- c) request the Councillor(s) the subject of the application to advise whether they will participate in mediation within 5 days of receiving the application, noting that, if no

advice is received, the Councillor(s) will be taken to have declined;

- d) if the Councillor(s) agree/s to participate in mediation:
 - i. the CEO, or a member of Council staff nominated by the CEO for the purpose (the CEO's nominee), will engage a mediator, to be chosen by the CEO (or the CEO's nominee);
 - ii. the CEO (or the CEO's nominee) will, with the cooperation of the Councillors involved in the application, arrange a suitable time and place for the mediation, to be no later than 5 business days from the date of the advice provided under paragraph (c); and
 - iii. if the mediation is not complete within 5 business days of the date nominated for it to take place, the Councillors will be taken as not having agreed to participate in the mediation, unless both Councillors agree to extend the time for completion;
- e) if the mediation resolves the application, the mediator will document the agreement reached by the Councillors involved and provide a copy of the agreement to both Councillors and to the CEO;
- f) if the mediation is not completed in accordance with this Part 9.2.2 for whatever reason, the CEO (or the CEO's nominee) will advise the:
 - i. Councillor making the application and ask the Councillor(s) to advise whether they wish to escalate the matter to another phase of the internal resolution process and, if so, which phase; and
 - ii. Councillor(s) the subject of the application; and
- g) the CEO (or the CEO's nominee) will ask the Councillor Conduct Officer to make arrangements to close or to escalate the application, according to the advice of the Councillor making the application.

10.2.3 Internal arbitration

Misconduct by a Councillor is defined in the Act as any breach by a Councillor of the standards of conduct. A breach may be referred to an arbiter for determination. The process for internal arbitration is prescribed by Part 6 of the Act and r 11 of the Regulations.

Internal arbitration may be commenced either after the first two phases of the internal resolution process prove unsuccessful in resolving the allegation, or as the first step in an application.

On receiving an application from a Councillor which meets the requirements of Part 9.1 of this Code and which seeks an internal arbitration process, or on escalating an application where a facilitated discussion and/or mediation has not been completed or has not resolved the allegation, the Councillor Conduct Officer will:

- a) refer the application to the Principal Councillor Conduct Registrar;
- b) notify the Councillors involved in the application of the referral;
- c) notify the CEO of the referral (for the CEO's information only);
- d) await advice from the Principal Councillor Conduct Registrar about the application; and
- e) take such steps as are necessary to give effect to the Principal Councillor Conduct Registrar's advice, in accordance with any instructions received.

Councillors recognise that an application for internal arbitration for an allegation of a breach of the Standards of Conduct will only be accepted by the Principal Councillor Conduct Registrar, and an arbiter will only be appointed, if the Principal Councillor Conduct Registrar is satisfied that:

- f) the application is not frivolous, vexatious, misconceived or lacking in substance; and
- g) there is sufficient evidence to support an allegation of a breach of the Councillor Code of

Conduct.

It is for the Councillor or Councillors submitting an application to ensure that the application meets these requirements.

If the Principal Councillor Conduct Registrar is satisfied that an application for internal arbitration should be accepted, the Principal Councillor Conduct Registrar will appoint an arbiter from a panel list compiled by the Secretary to the Department of Jobs, Precincts and Regions.

In conducting an arbitration the arbiter must:

- h) ensure that the parties involved are given an opportunity to be heard;
- i) ensure that a Councillor who is a party does not have a right to representation, unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly;
- j) conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and
- k) ensure that the hearing is not open to the public. Additionally, in conducting an arbitration the arbiter:
 - i. may hear each party to the matter in person or solely by written or electronic means of communication;
 - ii. is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit;
 - iii. may at any time discontinue the hearing if the arbiter considers that the:
 - application is vexatious, misconceived, frivolous or lacking in substance; or
 - Councillor making the application, or representing the group of Councillors making the application, has not responded, or has responded inadequately, to a request for further information.

If, at the completion of the internal arbitration process, the arbiter determines that a Councillor has breached the Standards of Conduct, the arbiter may make a finding of misconduct against the Councillor and impose any one or more of the following sanctions:

- l) direct the Councillor to make an apology;
- m) suspend the Councillor from the office of Councillor for a period specified by the arbiter (not exceeding one month);
- n) direct that the Councillor be removed from any position where the Councillor represents Council for a period determined by the arbiter;
- o) direct that the Councillor is removed from being the chair of a delegated committee for a period determined by the arbiter; and/or
- p) direct a Councillor to attend or undergo training or counselling specified by the arbiter.

The arbiter must provide a written copy of the arbiter's final and statement of reasons to:

- q) Council;
- r) the applicant(s) and the respondent; and
- s) the Principal Councillor Conduct Registrar.

A copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the arbiter's final and statement of reasons are provided. If the arbiter's decision and statement of reasons contain any confidential information, the confidential information must be redacted before it is tabled.

Councillors recognise that a failure to participate in and comply with the internal arbitration

process or a direction given to the Councillor by an arbiter is 'serious misconduct' for the purposes of the Act. Allegations of 'serious misconduct' are heard by a Councillor Conduct Panel.

10.3 Responsibility of Councillors

It is the responsibility of a Councillor or Councillors submitting an application to prepare the application, including by identifying and collating the evidence which supports it.

While members of Council staff may provide some administrative support, that support will not extend to assisting Councillors with the preparation of the substance of an application.

11 ADOPTION OF THIS CODE

11.1

This Code was adopted by a resolution of Council made at the Council meeting held on [] with a majority of at least two thirds of all Councillors voting in favour of it.

11.2

This Code may be reviewed at any time during the Council term.

12 DOCUMENTS INCORPORATED BY REFERENCE

12.1

Council may from time to time decide that additional documents should be part of this Code.

12.2

Documents Incorporated by Reference may be added or removed by Council resolution.

12.3

Councillors will comply with the policies and protocols included as documents incorporated into this Code by reference.

12.4

A breach of a document incorporated by Reference may constitute a breach of this Code.

Documents Incorporated by Reference

-
- Conduct During Elections Policy
- Child Safety and Wellbeing Policy
- Councillor Support Policy
- Fraud and Corruption Control and Framework
- Brimbank Governance Rules
- Information Privacy and Health Records Policy
- Councillor Gift, Benefit and Hospitality Policy
- Racial and Religious Tolerance Act 2001
- Public Transparency Policy

APPENDIX 1 DECLARATION

I will abide by the Councillor Code of Conduct and uphold the standards of conduct set out in the Councillor Code of Conduct.

I, Councillor _____, will abide by this Councillor Code of Conduct.

Signed _____ Date _____

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INTERNAL USE ONLY

Version	Version notes	Adopted	Next Review
C	Adopted as Major Policy Local Government Act 1989 Amendment	19 April 2016	February 2017
D	Local Government Act 1989 requirement (new Council)	14 February 2017	October 2017
E	Councillor Conduct Panel Direction	16 April 2019	September 2019
F	Status as a Major Policy New policy structure	February 2020	February 2021
G	Review	5 February 2024	February 2026

Local Government Act 2020 Compliance Statement

Section 9(1) of the *Local Government Act 2020* (Act) requires Council to give effect to the overarching governance principles, in the performance of its role. Section 9(2) of the Act specifies the governance principles as follows:

- a) Council decisions are to be made and actions taken in accordance with the relevant law (Compliance with the law);
- b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations (Achieve best outcomes for the community);
- c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted (Promote the sustainability of the municipality);
- d) The municipal community is to be engaged in strategic planning and strategic decision making (Engage the community in strategic planning and decision making);
- e) Innovation and continuous improvement is to be pursued (Strive for innovation and continuous improvement);
- f) Collaboration with other Councils and Governments and statutory bodies is to be sought (Collaborate with all other levels of government and government agencies);
- g) The ongoing financial viability of the Council is to be ensured (Secure the ongoing financial viability of Council);
- h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making (Strategic planning and decision making must take into account plans and policies in operation at all levels);
- i) The transparency of Council decisions, actions and information is to be ensured (Council decisions, actions and information must be transparent).

Governance Principles

In developing the Councillor Code of Conduct (“the Code”), Council has considered and given effect to the overarching governance principles, as summarised below:

Governance Principle	Considerations
(a) Compliance with the law	All relevant legal requirements have been considered in developing the Code. In particular, and without limitation, the Code complies with the requirements in Part 6 of the Act, the public transparency principles at section 58 of the Act, and the <i>Local Government (Governance and Integrity) Regulations 2020</i> . The Code meets the requirements prescribed in section 139(3) and adopted through a formal resolution of the Council in accordance with section 139(5) of the <i>Local Government Act 2020</i> .
(b) Achieve best outcomes for the community	The Code ensures ethical behavior and accountability among Councillors. Setting clear standards and expectations promotes transparency and fairness and leads to optimal outcomes for the community
(c) Promote the sustainability of the municipality	By adhering to this Code of Conduct, Councillors contribute to responsible governance, which in turn supports the overall sustainability and well-being of the municipality.
(d) Engage the community in strategic planning and decision making	In developing the Code Council undertook a community consultation process, in accordance with Council's Community Engagement Policy. Council will ensure that the community are consulted in the review of the Code in accordance with the Community Engagement Principles in section 56 of the Act and Council's Community Engagement Policy.

(e)	Strive for innovation and continuous improvement	Council will review the Code on a no less than biennial basis and pursue innovation and continuous improvement during every review.
(f)	Collaborate with all other levels of government and government agencies	In developing the Code Council considered the Councillor conduct framework arbitration process outlined www.localgovernment.vic.gov.au and Codes developed by other Victorian Councils
(g)	Secure the ongoing financial viability of Council	Not directly applicable for this Code.
(h)	Strategic planning and decision making must take into account plans and policies in operation	Not directly applicable for this Code.
(i)	Council decisions, actions and information must be transparent	The Councillor Code of Conduct promotes transparency and ethical behavior by setting guidelines to prevent conflicts of interest, ensure accountability, and prioritise the community's best interests. The Code also sets out clear and transparent processes for investigation of breaches of standards of conduct.

Brimbank City Council

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Hearing or speech impaired?

- TTY dial 133 677
- Speak & Listen 1300 555 727
- www.relayservice.gov.au, then enter 03 9249 4000



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