



# Councillor Code of Conduct

Adopted by Council

Date: 23 February 2021

## 1. Purpose

The purpose of local government is to provide a system under which Councils perform the functions and exercise the powers conferred by or under the *Local Government Act 2020* (LGA 2020) and any other Act for the peace, order and good government of their municipal districts. Good governance is fundamental to a Council being able to perform its purpose. Good governance relies on good working relations between councillors.

The purpose of the Councillor Code of Conduct is to include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.<sup>1</sup>

## 2. Performance of Council role

Under the LGA 2020, each Council must in the performance of its role give effect to the overarching governance principles.<sup>2</sup> These are:

- (a) Council decisions are to be made and actions taken in accordance with the relevant law;
- (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- (d) the municipal community is to be engaged in strategic planning and strategic decision making;
- (e) innovation and continuous improvement is to be pursued;
- (f) collaboration with other Councils and Governments and statutory bodies is to be sought;
- (g) the ongoing financial viability of the Council is to be ensured;
- (h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- (i) the transparency of Council decisions, actions and information is to be ensured.

In giving effect to the overarching governance principles, a Council must take into account the following supporting principles:<sup>3</sup>

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<sup>1</sup> LGA 2020 s 139 (2).

<sup>2</sup> LGA 2020 s 9.

<sup>3</sup> LGA 2020 s 9 (3).

- (a) the community engagement principles;
- (b) the public transparency principles;
- (c) the strategic planning principles;
- (d) the financial management principles;
- (e) the service performance principles.

### 3. Values

The organisation's values are:

1. Community and customer focussed
  - a. We ensure the community and our customers are at the centre of everything we do.
  - b. We communicate openly and honestly and take responsibility for our actions
2. Collaborative and inclusive
  - a. We work together to deliver the best outcomes for our community
  - b. We appreciate and learn from each other's expertise and respect different views and perspectives
3. Challenge the status quo
  - a. We explore new and innovative ways to work and deliver services and programs
  - b. We try new things and learn from our mistakes

### 4. What else is important to all councillors

- We recognise that we are all working towards a common goal – we have the same 'what', but the 'how' may be different.
- We focus on what connects us.
- We want officers to feel pride in the organisation they work for.
- We recognise that goals need to be achievable.
- We value good communication with the CEO.
- We recognise that the Mayor has a critical leadership role for our shire and our organisation, including a key role in helping to minimise conflict and finding solutions.
- We acknowledge that, to help us to achieve our responsibilities, we may need upskilling and refresher training, and this is particularly important for councillors who are elected as mayor.
- We recognise the importance of structured communications within the Council group.
- We realise we are elected representatives 24/7 and live within a small community therefore have greater visibility than some other local government areas
- We work towards addressing power imbalances about what community believes we are able to do and what we can actually do.

In our interactions with each other and others, as Councillors, we value:

- Accountability
- Respect
  - Treating others how you would like to be treated
  - Not taking things personally
  - Respecting our differences
- Honesty and integrity
  - Do what you promise to do

- Act in good faith
- Self-awareness
  - Acknowledge our mistakes
  - Put our egos aside
- Transparency
  - No surprises
  - Keeping each other and others informed
- Flexibility
  - Ability to change
- Community first
  - Listen to the community
  - Use new tools for dealing to the Community
- Building relationships and our councillor team
  - Enable us to understand where the other is coming from
  - Active listening
- Not taking things personally
- Developing a greater understanding amongst community about our role.
- Respect for democracy
  - Accept and support the majority vote

Councillors will aim to achieve continuous improvement in performance and the highest standards and outcomes for the Central Goldfields Shire. In doing so Councillors will:

- (a) be open to innovation and new ideas
- (b) always look for better ways to work together and to achieve outcomes on behalf of the community;
- (c) be result and outcome focused at all times;
- (d) encourage a positive culture focused on results and high-quality customer service;
- (e) strive to exceed community expectations;
- (f) adopt straightforward and realistic approaches and minimize “red tape”.
- (g) acknowledge good results to staff when noticed

## 5. Roles in Council

### 5.1. Role of a Councillor

The role of every Councillor is included within the LGA 2020 and is:

- (a) to participate in the decision making of the Council; and
- (b) to represent the interests of the municipal community in that decision making; and
- (c) to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.<sup>4</sup>

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

- (a) consider the diversity of interests and needs of the municipal community; and
- (b) support the role of the Council; and
- (c) acknowledge and support the role of the Mayor; and
- (d) act lawfully and in accordance with the oath or affirmation of office; and

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<sup>4</sup> LGA 2020 s 28 (1).

- (e) act in accordance with the standards of conduct; and
- (f) comply with Council procedures required for good governance.<sup>5</sup>

The LGA 2020 is clear that the role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer.<sup>6</sup>

#### **Councillor Commitment**

**As Councillors in good faith we undertake to comply with the various provisions of the Act and with this Code of Conduct.**

**We respect and recognise the role of the Mayor and will work co-operatively with the Mayor in the performance of the role.**

### 5.2. Role of the Mayor

The Mayor is the elected leader of the Council. A key role of the Mayor is to facilitate good relationships between Councillors, Councilors and the Chief Executive Officer and Executive Management Team. The Mayor sets the tone and style of behaviour, practice and projection of the Council working with, supporting and coordinating the team of Councillors.

The primary roles and responsibilities of the Mayor include:

- (a) chair Council meetings; and
- (b) be the principal spokesperson for the Council; and
- (c) lead engagement with the municipal community on the development of the Council Plan; and
- (d) report to the municipal community, at least once each year, on the implementation of the Council Plan; and
- (e) promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and
- (f) assist Councillors to understand their role; and
- (g) take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and
- (h) provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
- (i) perform civic and ceremonial duties on behalf of the Council.

### 5.3. Functions of the Chief Executive Officer

The Chief Executive Officer is responsible for:

- (a) supporting the Mayor and the Councillors in the performance of their roles; and
- (b) ensuring the effective and efficient management of the day to day operations of the Council.<sup>7</sup>

Further detail about these responsibilities is contained in LGA 2020 s 46.

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<sup>5</sup> LGA 2020 s 28 (2)

<sup>6</sup> LGA 2020 s 28 (3).

<sup>7</sup> LGA 2020 s 46.

The Central Goldfields Shire Council consists of democratically elected Councillors (the electoral arm) and the organisation/staff (the operational arm).

Good governance is dependent on how well the relationship between the elected members and the organisation works, as well as mutual respect and understanding between Councillors and Officers in relation to their respective roles, functions and responsibilities.

Councillors need to be aware of the requirements of section 124 of *LGA 2020* and must not intentionally direct, or seek to direct, a member of Council staff in the exercise of their duties.<sup>8</sup>

This provision also applies in respect of Officer reports presented to Council and on directing staff under delegation or as an Authorised Officer. It is important to note that section 124 applies to Councillors even when acting in a group outside formal Council or delegated committee meetings such as at Councillor Briefings.

To achieve good governance, clear and effective communication protocols for Councillors and Council staff are essential. In accordance with the Central Goldfields Councillor and Staff Interaction Policy, the following applies to Councillor/Staff relationships:

- Acknowledgement that the CEO is responsible for all administrative and staff matters and that all staff are answerable to the CEO, therefore Councillors' primary point of communication should be with the CEO.
- Councillors will refrain from using their position to improperly influence members of staff in their duties or functions, or to gain an advantage for themselves or others.
- Councillors will treat staff in a professional and respectful manner at all times.
- Provide and maintain a working environment that is safe and without risks to health and take appropriate measures to eliminate discrimination, sexual harassment or victimisation so far as is reasonably practicable.
- Councillors seeking information on a specific matter should do so via the CEO or the relevant General Manager in accordance with the Councillor and Staff Interactions Policy.
- Councillors are to lodge resident or Councillor requests with Councillor Requests should be sent to [CouncillorRequests@cgoldshire.vic.gov.au](mailto:CouncillorRequests@cgoldshire.vic.gov.au) for logging into the Customer Request Management (CRM) system.

#### **Councillor Commitment**

**We undertake to respect the functions of the Chief Executive Officer and to comply with the policies, practices and protocols defining appropriate arrangements for interaction between Council staff and Councillors that are put in place by the Chief Executive Officer.**

#### 5.4. *LGA 2020* requirements for a Councillor Code of Conduct

Under the *LGA 2020*, a Councillor Code of Conduct:

- (a) must include the standards of conduct prescribed by the regulations expected to be observed by Councillors; and
- (b) must include any provisions prescribed by the regulations for the purpose of this section; and

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<sup>8</sup> Penalty: 120 penalty units. See the Victorian Government website for the current value of a penalty unit.  
<https://www.justice.vic.gov.au/justice-system/fines-and-penalties/penalties-and-values>.

- (a) must include provisions addressing any matters prescribed by the regulations for the purpose of this section; and
- (b) may include any other matters which the Council considers appropriate, other than any other standards of conduct.<sup>9</sup>

The prescribed standards of conduct are contained in Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020*, and are included in the next section.

## 6. Prescribed standards of conduct

The standards of conduct prescribed by the *Local Government (Governance and Integrity) Regulations 2020* are required to be included in the Councillor Code of Conduct, accordingly, they are set out below.

### 6.1. 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.

### 6.2. 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—

- (a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- (b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- (c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (d) 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.

### 6.3. Compliance with good governance measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of the

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<sup>9</sup> LGA 2020 s 139 (3).



Council, must diligently and properly comply with the following—

- (a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- (b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- (c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;
- (d) any directions of the Minister issued under section 175 of the Act.

#### 6.4. 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 the Council.

In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

#### 6.5. Standards do not limit robust political debate

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

## 7. Specific councillor conduct obligations

### 7.1. Communication and Decision Making

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

There may be times when individual Councillors disagree with a majority decision of Council. Individual Councillors are entitled to express their own independent views, however, this should not be done in a way that reflects negatively on other individual Councillors or the Council as a whole.

Council will be open and transparent in its decision making and encourage community participation in Council Meetings.

To ensure constructive decision-making and communication of Council decisions, Councillors will:

- Commit to making all decisions impartially and in the best interests of the community
- Make fair and unbiased decisions by adhering to the principles of natural justice.
- Consider a person's interests which may be affected by a Council decision.
- Regularly attend meetings of Council, actively and openly participating in the decision-making process, striving to achieve the best outcome for the community.
- Seek approval of Council for leave of absence from council Meetings.
- Observe Council's Media Comment and Press release Guidelines.
- Respect the views of the individual in debate, however, also accept that decisions are to be based on a majority vote.
- Not make allegations which are personally offensive, derogatory or defamatory.
- Treat all matters on individual merit and base decision making on facts.

## 7.2. Social media usage

Councillors need to ensure that the use of social media minimises exposure of Council and Councillors to legal and reputational risk.

When using social media councillors need to have at the forefront of their minds their obligations under the Code of Conduct. The Code of Conduct applies to online activity in the same way it does to other written or verbal communications. This means three key things:

- (a) Be respectful
- (b) Be fair and open minded
- (c) Be accurate

Appendix 1 provides guidelines for Councillors on the use of social media.

## 7.3. Gifts, Benefits or Hospitality

Councillors should avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment. Councillors must be aware of their responsibilities relating to Gifts, Hospitality & Donations.

## 7.4. Conflict of Interest

Each Councillor is required to identify, manage and disclose any conflicts of interest they may have. Councillors therefore recognise the importance of fully observing the requirements of *the Act* in regard to the disclosure of conflicts of interest and will comply with requirements of **The Act** in regard to conflicts of interest. Upon identifying a conflict of interest, Councillors will follow the procedures as set out in *The Act*.

In addition to the requirements of *The Act*, Councillors will:

- (d) give early consideration and notify the Mayor as well as the Chief Executive Officer on whether a conflict of interest exists on any matter to be considered at a Council meeting/briefing, Delegated Committee or advisory committee of which the Councillor is a member.
- (e) give consideration on whether a conflict of interest exists
- (f) recognise that the legal onus to determine whether a conflict of interest exists rests entirely with each individual Councillor and the 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;
- (g) notify, as soon as possible, the Mayor or the Committee Chair if they consider that they are unable to vote on a matter because of a conflict of interest depending on whether the matter is to be considered by the Council or a delegated committee,

## 7.5. Use of Council Resources

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

- (a) maintaining appropriate security over Council property, facilities and resources provided to assist them in performing their role; and adhering to any guidelines or policies that have been established for the use of Councillor resources and facilities
- (b) not using public funds or resources in a manner that is improper or unauthorised;



- (c) not using Council resources, including staff, equipment and/or intellectual property for electoral or other purposes;
- (d) ensuring that all expense claims are accurate, are supported by the relevant documentation and strictly relate to Council business.

### 7.6. Council's Planning Process

Councillors must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion or situation where there may be a suspicion or perception of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

In exercising land use planning, development assessment and other regulatory functions, Councillors must ensure that no action, statement or communication between themselves and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

When proposing to meet with a planning permit applicant, either for the purpose of discussing the application or where the application is likely to become a topic of discussion, Councillors should seek a meeting via the Councillor Requests email address ensure a Council planning officer is present.

### 7.7. Interacting with Children and Young People

Council prides itself on being a child safe organisation and has zero tolerance for child abuse. Council adheres to the Victorian Child Safe Standards and related legislation. Councillors must be aware of their responsibilities outlined in Council's Child Safe Policy and be clear about processes for reporting and acting on concerns or reports of abuse or neglect of a child.

Councillors will respect, listen to and promote the rights of children and ensure behaviour and interactions with children are age appropriate, respectful and adhere to the behavioural expectations outlined in the Child Safe standards.

### 7.8. Elections

Councillors are committed to fair and democratic Council elections and therefore adopts and endorses the practices and legislative requirements set out in Council's Election Period Policy incorporated in the Governance Rules and the *LGA 2020* respectively.

#### State and Federal Elections

Councillors are required to follow any guidelines issued in relation to Candidature of Councillors in State or Federal Elections. These include the Municipal Association of Victoria's Policy position regarding Candidature of Councillors in State or Federal Elections or Local Government Victoria guidelines.

### 7.9. Reporting Unethical Behaviour

Councillors commit to upholding and promoting the highest standards in their day-to-day interactions. Councillors should report (to the relevant authority or person) behaviour that violates any law, rule or regulation or represents corrupt conduct, mismanagement of Council resources, misuse of position or is a danger to health, safety or to the environment.

## 8. Improper conduct

### 8.1. Misuse of position

Councillors acknowledge and agree to adhere to their responsibilities under **section 123 of The Act**:

- (1) A person who is, or has been, a councillor or member of a delegated committee must not misuse their position –
- a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
  - b) to cause, or attempt to cause, detriment to the Council or another person.

An offence against section 123(1) is an indictable offence.

- (2) For the purposes of this section circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a delegated committee include -
- a) making improper use of information acquired as a result of the position the person held or holds; or
  - b) disclosing information that is confidential information; or
  - c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or
  - d) exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or
  - e) using public funds or resources in a manner that is improper or unauthorised; or
  - f) participating in a decision on a matter in which the person has a conflict of interest.

This section:

- a) has effect in addition to, and not in derogation from, any Act or law relating to the criminal or civil liability of Councillors or members of delegated committees; and
- b) does not prevent the institution of any criminal or civil proceedings in respect of that liability.

### 8.2. Directing a member of Council staff

Councillors must not use their position to influence Council staff in the performance of their public or professional duties to obtain a private benefit for themselves or for somebody else. Councillors must not take advantage (or seek to take advantage) of their status or position with or of functions they perform for Council in order to obtain a private benefit for themselves or for any other person or body.

Councillors acknowledge and agree to comply with their obligations in regard to improper direction and improper influence section 124 of The Act.

### 8.3. Confidential information

Councillors have access to council information necessary for them to carry out their roles properly. However, a Councillor must remain impartial and must not use council information to gain advantage for themselves or any other person. Information is 'confidential' for the purposes of *the LGA 2020* if it is:

- provided for a closed council or delegated committee meeting;
- designated confidential by resolution of a council or delegated committee; and
- designated confidential by the CEO

Information discussed at a closed meeting is confidential. Unless the information is already publicly available, Councillors must not talk about anything discussed at the meeting with people who were not present. (section 125 of the *LGA 2020*).

## 9. Dispute resolution procedure

**All councillors are, individually and collectively, very committed to addressing issues at an early stage, supporting each other, and effectively and proactively using processes and resources to resolve issues and avoid escalation of issues.**

This part describes the processes for Councillors who wish to report and resolve an interpersonal dispute where the situation is unduly affecting the operation of the Council. An interpersonal dispute occurs between Councillors involve conflict where there may be a breakdown in communication, a misunderstanding, a disagreement between Councillors, or strained working relationships.

Councillors recognise that the democratic process of local government involves holding, and expressing, different and sometimes opposing viewpoints. It is a normal, and vital, function of this process that these different views are shared in a considered and informed way. Although all Councillors strive to engage in positive, constructive and respectful interactions, conflict and/or disputes may arise.

The primary purpose of an internal resolution procedure is to provide Councillors with support and mechanisms to resolve conflicts and disputes in a manner that enables them to move forward and establish and maintain effective working relationships.

This procedure is not intended to resolve differences in policy or decision-making, which are appropriately resolved through discussion and voting in Council and Committee Meetings. It is also not for complaints made against a Councillor or Councillors by a member or members of Council staff, or by any other person, or a "disclosure" under the *Public Interest Disclosures Act 2012*.

Through the dispute resolution process, Councillors (complainants and respondents) will be offered support which is appropriate, considering conflicts of interest, resourcing, capacity and issues of confidentiality.

The dispute resolution process comprises four stages, as described below. Although stages are voluntary, these are supported by all councillors and encouraged.

### 9.1. Stage One

Councillors will take personal responsibility and endeavour to resolve their differences in an informal, but at all times, courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.

All Councillors have a strong commitment to focus on resolving issues at this early stage.

### 9.2. Stage Two

If the informal resolution process between the Councillors is unsuccessful, the Mayor should be involved as soon as practically possible to convene a meeting of the parties.

The party requesting the Mayoral 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 “Mayoral 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 requestor’s representative.

Within 5 working days of receipt of the complaint, the Mayor will:

- provide written acknowledgment of receipt of the complaint to the Complainant;
- provide a copy of the complaint to the Councillor concerned; and
- attempt to facilitate a resolution and convene a meeting

The Mayor may call upon the CEO for advice and guidance at this point in the process.

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 28 of the Act, and the observation of the Councillor Standards of Conduct 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.

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 parties should progress to external mediation.

### **Dispute between Councillors and the Mayor**

In the event that the dispute involves the Mayor, another Councillor nominated by Council resolution will perform the role of the Mayor in facilitating discussions between the parties in dispute.

#### **9.3. Stage Three**

If reconciliation of the dispute is not possible after Mayoral negotiation, it is the responsibility of the Mayor to seek assistance from an external mediator to resolve the dispute, preferably with the active support of the parties to the dispute, who must be informed of such a decision in any circumstance.

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 “self-resolution”.

The applicant is to submit a written application to the Councillor Conduct Officer (CCO)<sup>10</sup> 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 applicant’s 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 CCO or as soon as practical thereafter.

The CCO 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 Councillor Conduct Officer. These reasons may be taken into account if the matter is, subsequently, the subject of an application for a Councillor Conduct Panel.

When 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 CCO is to advise the applicant, the Mayor and Chief Executive Officer immediately.

The CCO 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.

#### 9.4. Stage Four

This stage is the internal arbitration process provided for in the *LGA 2020*. This process is further described in Part 10 of this Code of Conduct.

## 10. Internal Arbitration process

The *LGA 2020* provides for an internal arbitration process:

- 1) The internal arbitration process applies to any breach of the prescribed standards of conduct.

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<sup>10</sup> The Manager Governance Property and Risk is the CCO.



- 2) The following applies to an internal arbitration process—
- a) any processes prescribed by the regulations, including any application process;
  - b) the arbiter must ensure that parties involved in internal arbitration process are given an opportunity to be heard by the arbiter;
  - c) the arbiter must ensure that a Councillor who is a party to an internal arbitration process does not have a right to representation unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly;
  - d) any requirements prescribed by the regulation.<sup>11</sup>

### 10.1. Making an Application

An application for an internal arbitration process to make a finding of misconduct against a Councillor may be made within 3 months of the alleged misconduct occurring<sup>12</sup> by—

- the Council following a resolution of the Council; or
- a Councillor or a group of Councillors.<sup>13</sup>

An application under section 143 must be given to the Principal Councillor Conduct Registrar in the manner specified by the Principal Councillor Conduct Registrar in any guidelines published under section 149(1)(c).<sup>14</sup>

The prescribed process for an application for internal arbitration must include:

- the name of the Councillor alleged to have breached the standards of conduct; and
- the clause of the standards of conduct that the Councillor is alleged to have breached; and
- the misconduct that the Councillor is alleged to have engaged in that resulted in the breach; and
- after receiving an application under section 143 of the Act, the Councillor Conduct Officer provides the application to the Councillor who is the subject of the application.

An arbiter appointed to hear a matter subject to an application must:

- a) conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and
- b) ensure that the hearing is not open to the public.

An arbiter—

- a) may hear each party to the matter in person or solely by written or electronic means of communication; and
- b) is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit; and
- c) may at any time discontinue the hearing if the arbiter considers that
  - i) the application is vexatious, misconceived, frivolous or lacking in substance; or
  - ii) the applicant has not responded, or has responded inadequately, to a request for further information.

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<sup>11</sup> LGA 2020 s 141.

<sup>12</sup> LGA 2020 s 143 (3).

<sup>13</sup> LGA 2020 s 143 (2).

<sup>14</sup> LGA 2020 s 143.

### 10.2. Principal Councillor Conduct Registrar must examine application

The Principal Councillor Conduct Registrar, after examining an application under section 143, must appoint an arbiter<sup>15</sup> to the Council to hear the matter if the Principal Councillor Conduct Registrar is satisfied that—

- a) the application is not frivolous, vexatious, misconceived or lacking in substance; and
- b) there is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct as specified in the application.<sup>16</sup>

The Principal Councillor Conduct Registrar must reject an application if the Principal Councillor Conduct Registrar is not satisfied under subsection (1)(a) or (b).<sup>17</sup>

The rejection of an application by the Principal Councillor Conduct Registrar under this section does not prevent a further application being made under section 143 in respect of the same conduct by a Councillor that was the subject of the rejected application.<sup>18</sup>

Information provided to an arbiter or produced by an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons, is confidential information.<sup>19</sup>

### 10.3. Arbiter must refer certain applications

If, at any time before, during or after the hearing of an application for an internal arbitration process, the arbiter believes that the conduct that is the subject of the application for an internal arbitration process appears to involve serious misconduct and would more appropriately be dealt with as an application under section 154, the arbiter must refer the matter in writing to the Principal Councillor Conduct Registrar.<sup>20</sup>

If the Principal Councillor Conduct Registrar receives a referral under subsection (1), the Principal Councillor Conduct Registrar must notify the parties to the application for an internal arbitration process that the matter has been referred by the arbiter.<sup>21</sup>

### 10.4. Sanctions that may be imposed by an arbiter on finding of misconduct

If after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the prescribed standards of conduct, the arbiter may make a finding of misconduct against the Councillor.<sup>22</sup>

If an arbiter has made a finding of misconduct against a Councillor, the arbiter may do any one or more of the following—

- (a) direct the Councillor to make an apology in a form or manner specified by the arbiter;
- (b) suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month;

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<sup>15</sup> The arbiter will be chosen from a panel of eligible persons established by under *LGA* s 142.

<sup>16</sup> *LGA 2020* s 144 (1).

<sup>17</sup> *LGA 2020* s 144.

<sup>18</sup> *LGA 2020* s 144.

<sup>19</sup> *LGA 2020* s 145.

<sup>20</sup> *LGA 2020* s 146.

<sup>21</sup> *LGA 2020* s 147.

<sup>22</sup> *LGA 2020* s 147 (1).

- (c) direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter;
- (d) direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter;
- (e) direct a Councillor to attend or undergo training or counselling specified by the arbiter.<sup>23</sup>

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<sup>23</sup> LGA 2020 147 (2).

The arbiter must provide a written copy of the arbiter's decision and statement of reasons to—

- a) the Council; and
- b) the applicant or applicants; and
- c) the respondent; and
- d) the Principal Councillor Conduct Registrar.

Subject to the next paragraph, a copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the Council received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting.<sup>24</sup>

If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted from the copy tabled under the above paragraph.<sup>25</sup>

### 10.5. No Applications during Election Period

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 were made by a group of Councillors and any one (or more) of those Councillors who has 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.

## 11. Request for Councillor Conduct Panel

LGA 2020 Part 6 Division 7 provides for a Council Conduct Panel process to hear an application that alleges serious misconduct by a Councillor. The Principal Councillor Conduct Registrar manages the establishment of Councillor Conduct Panels.

The independent Councillor Conduct Panel process is designed to deliver a comprehensive and thorough assessment of allegations of serious misconduct.

Under the framework, complaints of serious misconduct by councillors are heard and determined by councillor conduct panels. The kinds of behaviour that constitute and serious misconduct are set out in the definitions provided in section 3 of the Act.

Serious misconduct includes the failure to comply with the council's internal arbitration process or with a direction given to the councillor by an arbiter, and failure to attend a councillor conduct panel hearing or to comply with a direction of a panel. It also includes continued or repeated misconduct after a finding against a councillor by an arbiter or a

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<sup>24</sup> LGA 2020 s 147 (4).

<sup>25</sup> LGA 2020 s 147 (5).

panel. These provisions reinforce the authority of the council internal resolution and councillor conduct panel processes and determinations.

Bullying another councillor or a member of council staff is serious misconduct. Bullying is defined as repeated unreasonable behaviour by a councillor towards another councillor or member of council staff that creates a risk to the health and safety of the councillor or member of staff.

Sexual harassment of a councillor or member of council staff is also serious misconduct.

The remaining grounds of serious misconduct are attempting to direct council staff, releasing confidential council information, or failing to disclose a conflict of interest (and exclude themselves from the decision making) where required to do so.

Where a councillor conduct panel makes a finding of serious misconduct against a councillor, the councillor becomes ineligible to hold the office of mayor (unless the panel directs otherwise), and the panel may:

- reprimand the councillor
- direct the councillor to make an apology
- suspend the councillor from office for a period of up to 12 months
- direct that the councillor is ineligible to chair a special committee of the council for a period up to and including the remainder of the council's term.

A councillor conduct panel also has power to make a finding of misconduct if the panel is satisfied that the councillor has breached one or more of the prescribed standards of conduct and may impose the same penalties as an arbiter.

Regardless of whether or not a finding of misconduct or serious misconduct has been made, a councillor conduct panel may also make a finding that remedial action is required and direct the councillor to attend mediation, training or counselling.

### 11.1. Councillor conduct panel process

If a council, a councillor, or a group of councillors consider that another councillor's actions or activities amount to misconduct or serious misconduct, they can apply to the principal councillor conduct registrar for a councillor conduct panel to be formed to make a finding in relation to these actions or activities.

An application for a finding of serious misconduct must be made within 12 months of the alleged serious misconduct occurring.

An application for a finding of serious misconduct that alleges that a councillor has failed to disclose a conflict of interest may only be made by the Chief Municipal Inspector.

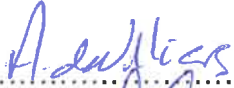








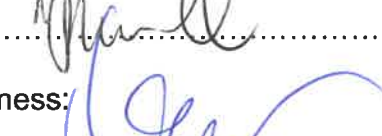




Detail about the Council Conduct Panel process is available in the *LGA 2020* and the Victorian Government website.



## Council adoption

This Code of Conduct was adopted at the Council Meeting of the Central Goldfields Shire Council held on 23 February 2021.

Councillor each declare that they have read the Councillor Code of Conduct and declare to abide by the Code at all times.

Cr Anna De Villiers		Dated: 23-2-21
	Witness: 	Dated: 23-2-21
Cr Grace La Vella		Dated: 23-2-21
	Witness: 	Dated: 23-2-21
Cr Liesbeth Long		Dated: 23-2-21
	Witness: 	Dated: 23-2-21
Cr Geoff Lovett		Dated: 23-2-21
	Witness: 	Dated: 23-2-21
Cr Chris Meddows-Taylor		Dated: 23-2-21
	Witness: 	Dated: 23/2/2021
Cr Gerard Murphy		Dated: 23/2/2021
	Witness: 	Dated: 23/2/2021
Cr Wayne Sproull		Dated: 23-2-2021
	Witness: 	Dated: 23-2-2021

## Appendix 1 Media & social media

Clear standards and guidelines are in place that outline the appropriate use of media and social media channels by councillors, staff and contractors. This supports compliance with legislation and staff and councillor Codes of Conduct and protects the reputation of councillors and Council.

The Code of Conduct applies to online activity to ensure such activity does not reflect adversely on the role of a Councillor and as a leader in your community. Online conduct that breaches the Code of Conduct is considered inappropriate conduct.

This includes behaving in a way which contradicts the Governance Overarching principles, Standards of Conduct and values outlined in the Code of Conduct. This could include replying to comments in a way which doesn't show respect or misrepresents Council or a Councillor's actions or activity.

### **Media Comment & Press Release**

The Communications Unit are responsible for maintaining Council's Corporate Facebook page, and Twitter and Instagram profiles.

### **Use of Social Networking Sites**

The Communications Unit are responsible for maintaining Council's Corporate Facebook page and Twitter pages and manages the social media on behalf of the Mayor.

The use of social and professional networking media (such as LinkedIn, Facebook, Twitter and YouTube) offers opportunities for people to collaborate in online forums and communities that share common interests and share or consume content. Councillors, as social media users, need to understand that information provided by them or their representatives can be seen by the public.

When engaging in social media networking, Councillors need to be clear about who they are representing, taking responsibility for ensuring that any references to Council are authorised, factually correct and accurate, do not breach confidentiality requirements, and show respect for the individuals and communities with which they interact. Comments and information should not breach the Councillor Code of Conduct or this policy.

The use of Council branding or information on Councillors personal websites or social media is not permitted.

Councillors should not endorse any political affinity or allegiance using a Council email address or Council social media applications e.g. Facebook, LinkedIn or Twitter etc.

Sharing of content posted on corporate communications channels is appropriate, however Councillors must ensure that any additional commentary added as part of sharing complies with the requirements and principles of this policy.

### **Conduct Provisions for use of social media**

#### **Conduct**

- That you do not attempt to unduly influence other councillors, council staff or contractors or undermine public confidence in the processes of council.

- That you are alert to the possibility that personal comments about public issues may compromise your capacity to perform your duties in an independent and unbiased manner.
- That you ensure your comments do not indicate that you have come to a conclusive view on a matter coming before council, prior to fully considering the proposal and related issues