



Swan Hill Rural City Council

Councillor Code of Conduct

This Code, which incorporates the statutory requirements specified for a Code of Conduct in accordance with section 139 of the Local Government Act 2020, was adopted by the Swan Hill Rural City Council on 23 February 2021.

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1. Introduction

1.1 Overview

The role of Council and Councillors, and governance arrangements that cover Swan Hill Rural City Council (Council), are set out in the Local Government Act 2020 (the Act). The primary objective for Council is to endeavour to achieve the best outcomes for the local community having regard to the long term cumulative effect of its decisions. Further objectives are set out in the Act. Good governance is fundamental to the achievement of Council's objectives.

The Act requires Council to have a Councillor Code of Conduct (Code) and prescribes certain requirements. The Code sets expected standards of Councillor behaviour and provides guidance in the event of any Councillor breach of the Code.

The Code was adopted by Swan Hill Rural City Council (Council) on 23 February 2021 and is required to be reviewed within four months after a general election.

Councillors must understand and commit to complying with the standards of conduct and obligations of Councillors in accordance with section 139 of the Act, as well as the standards of conduct set out in this Code of Conduct.

1.2 Purpose

The Code of Conduct sets out the standards of conduct expected of Councillors when carrying out their roles, responsibilities and obligations as elected representatives for their communities.

By adhering to the conduct set out in the Code of Conduct, Councillors will increase public confidence in local government and Council decisions.

1.3 Scope

This Code applies to Councillors of the Swan Hill Rural City Council. For the purposes of this Code, the term 'Councillors' includes the Mayor, the Deputy Mayor and all other Councillors of Council.

Legislative obligations of Council and Councillors are set out in the Code where required by legislation. Council and Councillor obligations in the Act, and other applicable legislation (as amended), apply to Council and Councillors, even if not expressly set out in the Code.

This Code should be read alongside other Council documents, including the Council Plan, Council policies, Governance Rules, protocols and Council's local laws, as applicable and as amended from time to time, which all form part of Council's governance framework.

This Code should not be read as an exhaustive statement on the rights and obligations of individuals that ordinarily apply under the law, including any avenues of reporting and redress that may be available in specific circumstances.

1.4 Our values

Swan Hill Rural City Council has five core values that drive us in our dealings with the people we serve, our stakeholders and the community.

In pursuing Council's objectives Councillors should demonstrate:

Community engagement - We will ensure that our communities are consulted, listened to and informed.

Leadership - We will be at the centre of our community and by actively engaging our community we will form the collective view on strategic issues and will then express our views through strong advocacy.

Fairness - We will value and embrace the diversity of our community and ensure that all people are treated equally.

Accountability - We will be transparent and efficient in our activities and we will always value feedback.

Trust - We will act with integrity and earn the community's trust by being a reliable partner in delivering services and providing facilities.

2. Councillor conduct obligations

The following section sets out conduct obligations that are agreed by all Councillors. I acknowledge and agree that Council policies and procedures referred to below apply to me as a Councillor and I commit to compliance with them and with my legislative obligations.

2.1 Standards of conduct

I have read and understood the standards of conduct in Schedule 1 of the Local Government (Governance and integrity) Regulations 2020 and in performing my role of a Councillor I will:

- treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect;
- do everything reasonably necessary to ensure I perform the role of a Councillor effectively and responsibly;
- ensure compliance with good governance measures;
- ensure my behaviour does not discredit or mislead Council or the public; and
- ensure that the standards of conduct do not limit, restrict or detract from robust political debate.

I understand that a breach of the conduct standards constitutes misconduct as defined under the Act.

2.2 Decision making

I am committed to making all decisions impartially and in the best interests of the community. I will actively participate in the decision-making process and appropriately inform myself of the matter at hand. I will give proper consideration to human rights when making decisions. Once a decision has been made, I will respect the making of that decision.

I recognise that collaborative discussion and planning is essential to the effective governance of the municipality, and will attend and participate in planning sessions and workshops organised by the Chief Executive Officer for the purpose of strategy and budget.

The Governance Rules sets out the procedures for decision making by Council. I agree to abide by the obligations set out in the Governance Rules.

2.3 Discrimination, harassment and victimisation

Discrimination, harassment and victimisation are against the law and will not be tolerated under any circumstances. I will:

- not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.

- not engage in any unwelcome conduct of a sexual nature towards another individual where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the individual harassed would be offended, humiliated or intimidated.
- endeavour to take positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the *Equal Opportunity Act 2010*.

2.4 Bullying

Council is committed to maintaining a workplace that is free from bullying and where all people are treated with dignity and respect. I will:

- endeavour to work collaboratively and respectfully with my fellow Councillors and Council officers.
- uphold my obligations under Occupational Health and Safety legislation and support a safe workplace.
- not engage in repeated unreasonable behaviour toward another Councillor or member of Council staff that creates a risk to the health and safety of that other Councillor or member of Council staff.
- not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors.

Unreasonable behaviour and definitions of bullying are contained in the relevant legislation and Council's Equal Opportunity Policy.

2.5 Human rights and inclusion

I acknowledge the human rights that are protected under the *Victorian Charter of Human Rights and Responsibilities Act 2006* and undertake to exercise my duties in a manner that is compatible with the rights set out in the Charter and Council's Charter of Human Rights Policy.

I acknowledge this undertaking extends to all my relationships as a Councillor, including with other Councillors, the Chief Executive Officer and Council staff, as well as any member of the public with whom I may have contact, and any decisions I participate in as a Councillor.

I am committed always be inclusive, collaborative and supportive and treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities.

Represent 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.

2.6 Gender equality

The *Gender Equality Act 2020* requires councils to consider gender equality not only in their workforce but in the policies, programs and services that they deliver.

Council is committed to taking positive action towards achieving workplace gender equality and I commit to supporting the Council in fulfilling its obligation to achieve and promote gender equality.

2.7 Safety, health and wellbeing

Council is committed to providing and maintaining a safe and mentally healthy workplace for all and recognises the provisions of the *Occupational Health and Safety Act 2004* (the OHS Act) apply to Council and Councillors. The Chief Executive Officer has a clear accountability for OHS matters, given their mandate under the OHS Act and will put policies and procedures in place from time to time to ensure a safe workplace for Councillors to carry out their civic duties.

As a Councillor, I understand that occupational health and safety is a shared responsibility. Accordingly, I will:

- Comply with the OHS Act and incident and hazard reporting procedures.
- Take reasonable care to protect my own health and safety as well as the health and safety of others in the workplace.
- Undertake training, through Council, in order to obtain an understanding of the duties and obligations imposed by the OHS Act and their application to the duties of a Councillor.
- Consider any health and safety implications of Council decisions.

2.8 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 which governs the protection of children and young people and deals with the failure to report harm, failure to protect and grooming offenses. Accordingly, I undertake to:

- Maintain the highest standards of professional conduct in my attitude, behaviour and interactions with children and young people.
- Support and maintain Council's commitment to the safety and wellbeing of children and young people, including through any decision I participate in as a Councillor.
- Take all reasonable steps to protect children and young people from harm, including complying with Council's obligations under State and Federal child protection legislation, including completing appropriate working with children checks.
- Undertake training, through Council, in order to obtain an understanding of the duties and obligations imposed by the Victorian Child Safe Standards and their application to the duties of a Councillor.

2.9 Cultural awareness

Council recognises the traditional rights of indigenous peoples and acknowledge their right to maintain their culture, identity, traditions and customs. Accordingly I will:

- be aware of relevant cultural considerations and demonstrate respect when working with others from other cultural backgrounds.
- exercise cultural sensitivity and recognise and respect sites, places, structures and objects that are culturally or traditionally significant.
- ensure traditional owners are acknowledged at Council meetings and civic receptions accordance with the Aboriginal Community Partnership Strategy.

2.10 Fitness for duties

In respect of Council's commitment to maintaining a safe and healthy work environment and the standards of conduct I acknowledge that I must be fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity.

I also acknowledge that a range of factors and circumstances can impact on the satisfactory performance of my duties, including the consumption of alcohol and other drugs, even if legal and prescribed.

I will advise the Mayor/Chief Executive Officer of any relevant matter or thing related to my physical or psychological wellbeing that will, or has the potential to, impede or otherwise impact on my ability to undertake my role, as soon as I become aware of it.

2.11 Communications and media

Councillors have an obligation to effectively communicate the decisions of Council, and to respond to the community as appropriate. To ensure that clear and consistent messages are communicated, the Council's Media Policy sets out the management of media enquiries, release of information and nominated spokespersons and the Social Media Policy provides guidelines for Councillors about the personal and professional use of social media platforms.

I will comply with the Media Policy and Social Media Policy and respect the roles of Council's official spokespersons. I will also:

- Respect Council's decisions by not criticising or actively undermining any decisions which have been made by Council, and not bring Council into disrepute through any of my words or actions.
- Not speak on behalf of Council without authority, in accordance with the Media Policy.
- Ensure any personal opinions or views I express publicly are identified as my own and does not represent a position of Council. In addition, if I choose to express a personal view or opinion, I will not do so in the context of a spokesperson opportunity facilitated by Council.
- Ensure any communications I make are not offensive, derogatory, insulting or otherwise damaging to the reputation of Council. Councillors must show respect for others if making comments publicly and ensure that any such comments are devoid of comments that could reasonably be construed as being derogatory, offensive or insulting to any person.

2.12 Misuse of position

Councillors must ensure they do not misuse their position to gain, or attempt to gain, directly or indirectly an advantage for themselves or for another person, or to cause, or attempt to cause detriment to the Council or another person. Accordingly I will not:

- make improper use of information acquired as a result of the position I hold; or
- disclose information that is confidential information;
- deliberately mislead the Council or the public about any matter related to the performance of my public duties;
- direct, or improperly influence, or seek to direct or improperly influence, a member of Council staff;
- exercise or perform, or appear to exercise or perform, a power, duty or function that I am not authorised to exercise or perform; or
- use public funds or resources in a manner that is improper or unauthorised; or
- fail to disclose a conflict of interest as required under the Act.

2.13 Use of Council resources

I commit to using Council resources effectively and economically and in accordance with the IT Acceptable Use Policy and all other relevant policies. In particular, I will:

- use Council resources, which may include equipment, information, staff resources, property of any kind and other assets, which have been provided to me only for the purposes of my duties as a Councillor and not for private purposes unless properly authorised to do so;
- maintain adequate security over Council property, facilities and resources in my possession or control to prevent theft, misappropriation, damage, unauthorised disclosure or misuse;
- report any potential waste, damage, misuse, loss, fraud or theft of council resources; and

- not use public funds or resources in a manner that is improper or unauthorised.

I will also ensure that any claim for support expenses that I may make will be in accordance with all legislative obligations and the Council Expenses Policy.

2.14 Access to council buildings

Councillors are entitled access to the council chamber (subject to availability) and public areas of Council's buildings during normal business hours and for meetings. Councillors needing access to these facilities at other times must obtain authority from the Chief Executive Officer.

I understand that I must not enter staff-only areas of Council buildings without the approval of the Chief Executive Officer (or their delegate) or as provided for in the procedures governing the interaction of Councillors and Council staff.

2.15 Councillor and member of staff interactions

I have read and understood the requirements of Section 124 of the Act and I will not seek to improperly direct or influence members of Council staff in the exercise of their duties.

I will follow the Councillor and Staff Interaction Policy which sets out interaction between Councillors and the Chief Executive Officer, senior management and other employees.

2.16 Land use planning, development assessment and other regulatory functions

Councillors must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly.

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

2.17 Use of Council 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.

I acknowledge that information which is "confidential information" within the meaning of section 125 of the Act may not be disclosed by me except in certain specified circumstances. I am aware that Council information may also be subject to other legislation including the *Health Records Act 2001*, *Privacy and Data Protection Act 2014* and *Freedom of Information Act 1982*.

I will comply with any legislative provisions and Council policies concerning my access to, use of, or disclosure of Council information, whether confidential or otherwise.

I will comply with the requirements of the *Public Records Act 1973* and Council's Records Management Policy and will not destroy, alter, or dispose of Council information or records, unless authorised to do so.

2.18 Conflict of interest

Sections 130 and 131 of the Act require each Councillor to identify, manage and disclose any conflicts of interest they may have.

I acknowledge that I have read and understand these provisions and will abide by them. In the event that I consider that I have a general or material conflict of interest in relation to a matter, I will declare and identify

this at the commencement of any discussion on the matter. I will seek advice from the appropriate person if I need assistance on interpretation of the legislative provisions.

I understand that I must disclose any conflict of interests at any Council meeting, meeting of a delegated committee, meeting of a community asset committee or meeting at which a majority of Councillors and a Councillor Officer is present, at which the matter is to be discussed in the manner required by Council's Governance Rules.

I acknowledge that considering, determining, and declaring a conflict of interest is my personal legal obligation as a Councillor. I understand Councillors are able to seek their own independent legal advice in relation to any of their conflict of interest matters.

2.19 Significant and/or intimate relationships

I understand that conflict and bias can arise from situations where relatives or people with significant and/or intimate relationships work together, and this can potentially lead or be seen to lead to decisions I make as a Councillor being made for reasons other than the public interest.

If I am involved in a relationship of a significant or intimate nature with another Councillor or an employee, I undertake to disclose the fact of this relationship to the Chief Executive Officer.

2.20 Personal interest returns

I have read and understood the requirements of Sections 132 - 136 of the Act and I will lodge with the Council a complete and accurate personal interest return and subsequent biannual interest returns, as required by legislation.

2.21 Gifts, benefits and hospitality

I commit to compliance with my statutory obligations in relation to gifts and hospitality. I also undertake to comply with Council's policy to disclose all gifts, benefits or hospitality offered and/or accepted in my capacity as a Councillor, in accordance with the Gifts, Benefits and Hospitality Policy and procedure. In addition, I commit to notify the Chief Executive Officer if in the conduct of my duties, I receive an inappropriate offer of a gift or hospitality of any kind.

2.22 Reporting fraud and corruption

Ethical behaviour is an integral part of responsible, effective and accountable government. I will immediately report to the Chief Executive Officer, in line with the Council's Fraud Control Policy any suspected, potential or actual fraudulent, criminal, unethical, corrupt or other unacceptable behaviour that comes to my knowledge. The preceding behaviour is not confined to Councillors, Council staff or contractors, third parties who seek to unlawfully influence or mislead Council staff can fall within this category. I will participate as required to the best of my ability in any subsequent investigation whether undertaken internally or externally.

2.23 Elections

I am committed to ensuring that elections conducted by the Swan Hill Rural City Council are conducted fairly and democratically and in accordance with the highest standards of governance. Where I am a sitting Councillor during an election period I will abide by the requirements of the applicable legislation and the Council-endorsed Election Period Policy (which forms part of the Council's adopted Governance Rules) and, whether or not I am standing for re-election, I will at all times act respectfully towards all candidates for the election.

I understand that if I become a Nominated Candidate for a State or Federal election I must apply for leave of absence from the Council and during my leave of absence period I must not attend meetings of the council or otherwise act as a Councillor.

2.24 Other policies, procedures and protocols

I acknowledge that in fulfilling the statutory requirements of our role, a shared understanding of our obligation and the practical ways that we perform our duties is necessary for good governance. To achieve this shared understanding, I commit to the development and adoption of other operational policies and procedures that help define how we will work together and create a safe and positive work environment. These will, from time-to-time, require renewal to reflect contemporary best practice. Accordingly, I undertake to:

- Take all reasonable steps to become familiar with Councillor policies and procedures
- Participate in any reviews of these supporting documents
- Commit to adhere to these policies and procedures as agreed.

3. Key roles and responsibilities

3.1 Role of Council

The role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.

A Council must in the performance of its role give effect to the following overarching governance principles:

- (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.

3.2 Role of a Councillor

The role of a Councillor is to:

- (a) participate in the decision making of the Council; and
- (b) represent the interests of the municipal community in that decision making; and
- (c) contribute to the strategic direction of the 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:

- (a) comply with Council procedures for good governance; and
- (b) support the role of the Council and the Mayor; and
- (c) act lawfully and in accordance with the oath or affirmation of office; and
- (d) act in accordance with the standards of conduct; and
- (e) undertake any training or professional development activities the Council decides it is necessary for Councillors to undertake in order to effectively perform the role of a Councillor; and
- (f) diligently use Council processes to become informed about matters which are subject to Council decisions; and
- (g) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (h) represent the interests of the municipal community by considering and being responsive to the diversity of interests and needs of the municipal community.

The role of a Councillor does not include the performance of any responsibilities or functions of the CEO.

3.3 Role of the Mayor

The role of the Mayor is to:

- (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 CEO; and
- (h) provide advice to the CEO when the CEO is setting the agenda for Council meetings; and
- (i) perform civic and ceremonial duties on behalf of the Council.

3.4 Role of Deputy Mayor

The role of Deputy Mayor may exercise any of the powers of the Mayor if:

- (a) the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting;
- (b) the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- (c) the office of Mayor is vacant.

3.5 Role of the Chief Executive Officer

A Chief Executive Officer is responsible for supporting the Mayor and the Councillors in the performance of their roles; and ensuring the effective and efficient management of the day to day operations of the Council.

This responsibility includes:

- (a) ensuring that the decisions of the Council are implemented without undue delay; and
- (b) ensuring that the Council receives timely and reliable advice about its obligations under this Act or any other Act; and
- (c) supporting the Mayor in the performance of the Mayor's role as Mayor; and
- (d) setting the agenda for Council meetings after consulting the Mayor; and
- (e) when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision; and
- (f) carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the *Workplace Injury Rehabilitation and Compensation Act 2013*; and
- (g) establishing and maintaining an organisational structure for the Council; and
- (h) being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff; and
- (i) managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between members of Council staff and Councillors are developed and implemented; and
- (j) performing any other function or duty of the Chief Executive Officer specified in LG Act or any other Act.

4. Maintaining the integrity of the code

4.1 Resolving disputes

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.

Councillors hold an individual and collective responsibility to resolve disputes in a proactive, positive and courteous manner before they are escalated, to avoid such disputes threatening the effective operation of Council.

Section 5 – Dispute resolution procedure describes the processes for Councillors who wish to report and resolve a dispute with another Councillor under the Code.

4.2 Complaints alleging breaches of the prescribed standards of conduct included in the Code

The Act establishes a councillor conduct framework that provides a clear hierarchy for the management of councillor conduct issues.

Under the councillor conduct framework:

- complaints of misconduct by a councillor are heard and determined under the council's internal arbitration process by an independent arbiter;
- complaints of serious misconduct by a councillor are heard and determined by councillor conduct panels; and
- allegations of gross misconduct are dealt with by VCAT

In the first instance, issues and complaints should be raised under the dispute resolution procedure as detailed in the following section.

Some allegations of Councillor misconduct under this Code may constitute serious misconduct under the Act. In these instances, it is open to Council, a Councillor, or a group of Councillors, to make an application for a Councillor Conduct Panel in accordance with Section 154 of the Act.

For allegations of gross misconduct, Council, a Councillor(s) or members of the public can raise complaints to the Local Government Inspectorate.

Councillors can also raise a specific issues or complaints with any of the independent organisations that can consider complaints relating to a council, for example the Victorian Ombudsman and Independent Broad-based Anti-corruption Commission (IBAC).

4.3 Consequences of failing to comply with the Code

Failure to comply with the prescribed standards of conduct or other conduct prescribed in this Code of Conduct may lead to action under the councilor conduct framework or external avenues provided for by legislation and in the most serious cases may lead to suspension or removal from any positions where the Councillor represents the Council.

5. Dispute resolution procedure

5.1 Purpose

This section describes the processes for Councillors who wish to report and resolve a dispute with another Councillor under the Code.

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
- does not include a complaint 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*.

5.2 Scope

This procedure operates alongside, and does not displace, any external avenues provided for by legislation for the reporting and resolution of issues and disputes. It should be read in conjunction with the Act which sets out avenues for reporting matters of Councillor misconduct and establishes external authorities to hear, investigate, prosecute and make findings of Councillor misconduct, serious misconduct and gross misconduct.

For the purposes of the dispute resolution procedure:

- 'Councillor Conduct Officer' refers to an appointee of the Chief Executive Officer under section 150 of the Act who assists Council in the implementation and conduct of the internal arbitration process in the Code
- This procedure does not deal with allegations of criminal misconduct as they are envisaged to be raised with Victoria Police or other relevant mechanisms
- Nothing in this procedure prevents an individual Councillor with a specific issue or dispute from pursuing other avenues available to them under the law

5.3 Responsibilities

The **Mayor** and **Deputy Mayor** are responsible for:

- establishing and promoting appropriate standards of conduct
- supporting good working relations between Councillors; and
- supporting Councillors in dispute resolution.

The **Chief Executive Officer** has a responsibility to:

- ensure that support and assistance is available to all Councillors where it is required
- take all reasonable steps to ensure the consistent and accountable application of this procedure across Council
- comply with all relevant legislation as the senior officer within Council administration

The **Councillor Conduct Officer** is responsible for:

- Assisting Council in the implementation of, and conduct of, the internal arbitration process of a Council;
- Assisting the Principal Councillor Conduct Registrar to perform the functions specified in section 149(1) of the Act; and
- Assisting the Principal Councillor Conduct Registrar in relation to any request for information under section 149(3) of the Act.

Councillors have a responsibility to co-operate with any investigation into, or arbitration of, a complaint made under this procedure and to maintain confidentiality regarding any complaint.

5.4 Informal resolution between parties to a dispute

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves.

Where, after these endeavours have been exhausted, the matter still remains unresolved, the parties may resort to any or all of Council's internal dispute resolution processes set out below.

5.5 Formal dispute resolution

Council has three formal internal dispute resolution options:

- **Resolution discussion** - direct negotiation between the parties in dispute with a Convenor (the Mayor or Deputy Mayor) in attendance to provide guidance. See section 5.5.1 for detailed information.
- **Mediation** – with an external mediator, via an application to the Councillor Conduct Officer. See section 5.5.2 for detailed information.
- **Arbitration** - with an independent arbiter, via an application to the Councillor Conduct Officer. See section 5.5.3 for detailed information.

5.5.1 Resolution discussion

Where Councillors who are in dispute have not been able to resolve the dispute between them a party may request in writing that the Mayor (the 'Convenor'), to convene a meeting of the parties to discuss the dispute.

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor or the immediate past Mayor.

i) Request for a resolution discussion meeting

The party requesting the meeting is to provide the Convenor with the name of the other party and the details of the dispute in writing. The written request is to indicate that it is for a resolution discussion.

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.
- Be signed and dated by the requestor or the requestor's representative.

The party requesting the meeting is to notify the other party of the request and provide him or her with a copy of the written request either at the same time as it is provided to the Mayor or as soon as practicable thereafter (but not later than 2 days).

Alternatively, the Mayor may intervene to convene a meeting of both parties to support good working relations between parties.

ii) Agreement to attend meeting

The Convenor is to ascertain whether or not the other party is prepared to attend the meeting.

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

iii) Arranging the meeting

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

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

iv) Holding the meeting

The role of the Convenor at the meeting is to assist the parties to resolve the dispute. In the process of doing this they may provide guidance about what is expected of a Councillor including in relation to the role of a Councillor under section 28 of the Act and the Code.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened.

v) Meeting outcomes

The Convenor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties and a copy kept by the Councillor Conduct Officer.

Where the dispute remains unresolved, including circumstances where one party does not comply with the agreement, a party may request mediation or arbitration.

5.5.2 Mediation

A Councillor, or a group of Councillors, may make an application for a dispute to be referred for mediation. The mediation would be conducted by an external accredited mediator.

i) Application for mediation

The party seeking the mediation is to submit a written application to the Councillor Conduct Officer setting out the name of the Councillor, the details of the dispute and that the application is for 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.
- 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 Councillor Conduct Officer or as soon as practical thereafter.

ii) Agreement to attend mediation

The Councillor Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend mediation. If the other party declines to participate in 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.

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

iii) Engagement of mediator

If the other party consents to mediation the Chief Executive Officer will engage the services of an external mediator to conduct the mediation at the earliest practicable opportunity.

All parties will cooperate with the dispute resolution process and provide reasonable assistance to the external mediator and the Councillor Conduct Officer.

iv) Mediation outcomes

The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to the Councillor Conduct Officer and both parties.

Where the dispute remains unresolved, a Councillor may request the appointment of an arbiter.

5.5.3 Internal arbitration process

An internal arbitration involves a party (the Applicant) to a dispute requesting the Principal Councillor Conduct Registrar to appoint an impartial third party (the Arbiter) to make findings in the relation to allegations concerning another Councillor(s) (the Respondent) and whether they have engaged in misconduct under the Act.

The role of the arbiter is to:

- Consider applications alleging a contravention of the Councillor Code of Conduct or breach of Council's policies or procedures by a Councillor.
- Make findings in relation to the application.
- Provide a written statement of reasons supporting the findings to the Council at the same time as it gives its findings to the Council.
- Recommend an appropriate sanction or sanctions where the arbiter makes a finding of misconduct against a Councillor.

Note: An application cannot be made for an internal resolution by arbitration 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.

i) Application for arbitration

An application for an internal arbitration process to make a finding of misconduct against a Councillor can be made by:

- the Council following a resolution of the Council, or
- Councillor or a group of Councillors.

The application can be obtained from the Councillor Conduct Officer and must:

- be made within three months of the alleged misconduct occurring;
- 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;
- be signed and dated by the applicant or the applicant's representative; and
- 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) of the Act.

An applicant may withdraw an application for arbitration at any time. Once an application has been withdrawn, the same or a similar application relating to the same instance in relation to the respondent Councillor cannot be resubmitted by the applicant.

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

- The application was made by the Council and the Council so resolves; or
- The application was made by a group of Councillors and any one (or more) of those Councillors who 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.

On receiving an application, the Councillor Conduct Officer will:

- Advise the Mayor and CEO of the application without undue delay.
- Provide a copy of the application to the respondent Councillor at the earliest practical opportunity, but not later than two working days from receipt of the application.

ii) Identification and appointment of a suitable arbiter

The Principal Councillor Conduct Registrar, after examining an application, will appoint an arbiter to Council to hear the matter if satisfied that:

- The application is not frivolous, vexatious, misconceived or lacking in substance
- There is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct as specified in the application

In identifying an arbiter to hear the application, the Principal Councillor Conduct Registrar will select and arbiter suitably independent and able to carry out the role fairly. The arbiter must be selected

from a panel of eligible persons established by the Secretary to conduct an internal arbitration process.

Once a suitable arbiter is identified the Principal Councillor Conduct Registrar will:

- Obtain from the arbiter written advice that they have no conflict of interest in relation to the Councillors involved.
- Notify the parties of the name of the proposed arbiter and provide them with the opportunity (two working days) to object to the person proposed to be the arbiter.
- Consider the grounds of any objection and appoint the proposed arbiter or identify another arbiter.
- Provide a copy of the application to the arbiter as soon as practicable after the opportunity for the parties to object to an arbiter has expired.
- After consultation with the arbiter, advise the applicant and the respondent of the time and place for the hearing.
- Attend the hearing(s) and assist the arbiter in the administration of the process.

iii) Arbitration hearing(s)

The Councillor Conduct Officer will attend the hearing(s) and assist the arbiter in the administration of the process.

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

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

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

iv) Arbitration outcomes

An arbiter:

- May find that a Councillor, who is a respondent to an internal resolution procedure application, has not engaged in misconduct.
- May find that a Councillor, who is a respondent to an internal resolution procedure, has engaged in misconduct.
- Will suspend consideration of an internal resolution procedure during the election period for a general election.
- May hear each party to the matter in person or solely by written or electronic means of communication.
- Is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit.
- May at any time discontinue the hearing if the arbiter considers that the application is vexatious, misconceived, frivolous or lacking in substance or the applicant has not responded, or has responded inadequately, to a request for further information.
- Must refer the matter in writing to the Principal Councillor Conduct Registrar if 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 to the Councillor Conduct Panel under section 154 of the Act.

The arbiter is to give a copy of his or her findings and the statement of reasons to: Council; the applicant; the respondent; and the Principal Councillor Conduct Registrar.

A copy of the arbiter's findings, statement of reasons and any recommended sanctions is to be submitted to the next ordinary meeting of Council for its consideration. If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted before submission to the Council meeting.

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

- Direct the Councillor to make an apology in a form or manner specified by the arbiter.
- Suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month.
- Direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter.
- Direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter.
- Direct a Councillor to attend or undergo training or counseling specified by the arbiter.

v) Failure to participate in the internal arbitration process

A Councillor who does not participate in the internal arbitration process may be guilty of serious misconduct under the Act. Allegations of serious misconduct are heard on application by a Councillor Conduct Panel. Refer to the Councillor Conduct Officer for more information on this process.

6. Our commitment

6.1 Working together

We commit to upholding the spirit of the Code of Conduct and wish the Code to be always read and interpreted through this Statement of Intent.

Our express intention in adopting and being bound by the Code is to:

- always act with the highest levels of integrity, care and diligence to promote the best interests of the community as a whole, never for the benefit of one or more businesses, individuals, political parties or groups of people, in accordance with the law and governance principles applicable to our role as Councillors;
- develop and monitor the execution of the Council Plan but be mindful not to interfere in the operational execution of the Plan;
- act in accordance with agreed communication processes and channels (as approved Council) in a clear, respectful, patient manner designed to be mindful to minimise the impact upon the Council's resources and employees' time;
- welcome and listen to differing views and advice of Councillors, Council employees and other people attending Council related meetings of any kind and be open to constructive feedback;
- make decisions impartially and on the best evidence available; and
- accept accountability for our actions.

6.2 Councillor commitment to the Code of Conduct

I, as an elected representative of the community charged with decision making for Swan Hill Rural City Council, am committed to undertaking the duties and responsibilities of my office by working together with my fellow Councillors in a respectful and constructive manner to achieve the goals and vision for our municipality.

I recognise the importance of acting in accordance with the highest standards of governance, and that this is essential to honest, accountable and effective government. My behaviour towards my colleagues, the employees of Council and the community is critical to the teamwork required to be a successful and highly functioning public authority.

I acknowledge that I have been elected by the community to a position of significant responsibility with the expectation that I will act in accordance with accepted values of our society.

I also acknowledge that Council is committed to the values of community engagement, leadership, fairness, accountability and trust.

These values and associated obligations are set out in this Code together with additional conduct requirements and processes for the management of behaviour which does not meet the required standards.

The Code also incorporates specified policies and procedures which underpin the values and provide guidance for the implementation and management of Councillor conduct.

As a Councillor of Swan Hill Rural City Council I agree to:


- Act in accordance with the Standards of Conduct set out in the Local Government (Governance and Integrity) regulations 2020.
- Act in accordance with the principles of good governance and respectful conduct and associated obligations set out in the Code and legislation
- Provide civic leadership and contribute effectively to the interests and advancement of Council and its community

- Contribute to the strategic vision for Council and the community
- Uphold the public trust in the office of Councillor by refraining from any action or behaviour that would bring Council into disrepute
- Act in accordance with all my obligations to the best of my skill and judgement.

This Code sets out my commitment to my fellow Councillors and the community to govern the municipality in a manner that accords with the expressed behaviours, standards and values. This Code will be reviewed in accordance with relevant legislative obligations.

By signing below, I declare to my fellow Councillors, and to the community, that I have read, understood and will abide by this Code of Conduct.

I, Councillor Bill Moar, will abide by this Councillor Code of Conduct.

Signed 
Cr Bill Moar

Date 23/2/2021

I, Councillor Chris Jeffery, will abide by this Councillor Code of Conduct.

Signed 
Cr Chris Jeffery

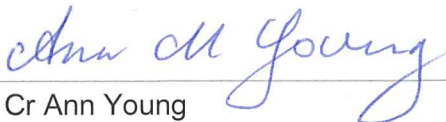
Date 23/2/2021

I, Councillor Nicole Mckay, will abide by this Councillor Code of Conduct.

Signed 
Cr Nicole Mckay

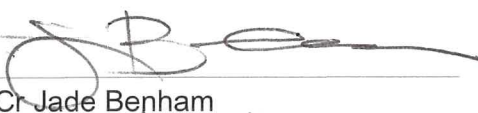
Date 23/2/21

I, Councillor Ann Young, will abide by this Councillor Code of Conduct.

Signed 
Cr Ann Young

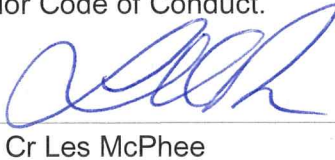
Date 23/2/21

I, Councillor Jade Benham, will abide by this Councillor Code of Conduct.

Signed 
Cr Jade Benham

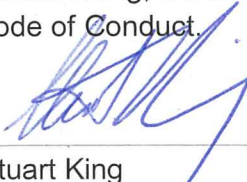
Date 23/2/21

I, Councillor Les McPhee, will abide by this Councillor Code of Conduct.

Signed 
Cr Les McPhee

Date 23/2/21

I, Councillor Stuart King, will abide by this Councillor Code of Conduct.

Signed 
Cr Stuart King

Date 23/2/21

Witnessed by:

Signed 
John McLinden, Chief Executive Officer

Date 23/2/2021

APPENDIX 1 - GLOSSARY

Act:	All references to the 'Act' are to the <i>Local Government Act 2020</i> .
Arbiter:	An arbiter is a person or institution that judges and settles a quarrel between two other people or groups.
Chief Executive Officer:	The Chief Executive Officer of Council.
Chief Municipal Inspector:	head of the Local Government Investigations and Compliance Inspectorate.
Conflict of Interest:	A relevant person has a conflict of interest if the relevant person has— (a) a general conflict of interest within the meaning of section 127; or (b) a material conflict of interest within the meaning of section 128.
Council:	Swan Hill Rural City Council.
Councillor:	All references to 'Councillor' include the Mayor, Deputy Mayor and elected members of Council.
Councillor Conduct Panel:	Means a panel formed by the Principal Councillor Conduct Registrar under section 156 of the Act.
Employee:	An employee of Council includes all members of staff, contractors and volunteers under the direct control or supervision of the Council.
Material conflict of interest:	A relevant person 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
Misconduct:	Misconduct by a Councillor means any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct.
General conflict of interest:	A relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.
Gross misconduct:	Gross misconduct by a Councillor means behaviour that demonstrates that a Councillor is not of good character or is otherwise not a fit and proper person to hold the office of Councillor, including behaviour that is sexual harassment and that is of an egregious nature.
Serious misconduct:	Serious misconduct by a Councillor means: (a) the failure by a Councillor to comply with the Council's internal arbitration process; (b) the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147; (c) the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor; (d) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel;

- (e) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b);
- (f) bullying by a Councillor of another Councillor or a member of Council staff;
- (g) conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff;
- (h) the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information;
- (i) conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff;
- (j) the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with the Act.

Councillor Conduct Officer:

A person appointed by the Chief Executive Officer to assist Council in implementing its internal resolution procedure.

Principal Councillor Conduct Registrar:

an employee of the Department of Environment, Land, Water and Planning whose role is to administer all Councillor conduct panel processes and appeals of panel decisions.

VCAT:

Victorian Civil and Administrative Tribunal

VEC:

the Victorian Electoral Commission is the statutory election service provider for all Victorian council elections and Victorian State elections.