

COUNCIL POLICY

Councillor Code of Conduct	Adopted By Council:	18/09/13	
	Date/s Revised:	18/10/11 18/09/13	
	Next Review Date:	01/2017*	
	* (subject to legislative requirements)		
	Document No:	CP005	
	Directorate:	Executive	
	Responsible Officer:	Chief Executive Officer	

CONTEXT

This Councillor Code of Conduct has been developed to incorporate the statutory requirements specified for a Code of Conduct in accordance with [section 76C](#) of the *Local Government Act 1989*.

The key foundation for the development of this Councillor Code of Conduct is the Councillor oath of office and/or solemn affirmation which all Councillors have made in accordance with [section 63](#) of the *Local Government Act 1989* and [sections 100](#) & [102](#) of the *Evidence (Miscellaneous Provisions) Act 1958*, which declares that Councillors will:

"...undertake the duties of the office of Councillor in the best interests of the people of the municipal district of the Borough of Queenscliffe and faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1989 or any other Act to the best of their skill and judgment".

DEFINITIONS

Misconduct as defined in the [Local Government Act 1989](#), means any of the following:

- failure by a Councillor to comply with the Council's internal resolution procedure
- failure by a Councillor to comply with a written direction given by the Council
- repeated contravention of any of the Councillor conduct principles.

POLICY

1. Introduction

As councillors of the Borough of Queenscliffe we are committed to working together in the best interests of the people within our municipality and to discharging our responsibilities to the best of our skill and judgment.

Our commitment to working together constructively will enable us to achieve the Borough of Queenscliffe Council vision, *"A vibrant, safe and welcoming community that draws inspiration and life from our heritage, unique environment and connection to the sea"*.

The primary role of the Council is to provide leadership for the good governance of the Borough of Queenscliffe. The role of the council also includes:

- Acting as a representative government by taking into account the diverse needs of the local community in decision making;

- Providing leadership by establishing strategic objectives and monitoring their achievement;
- Maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;
- Advocating the interests of the local community to other communities and governments;
- Acting as a responsible partner in government by taking into account the needs of other communities; and
- Fostering community cohesion and encouraging active participation in civic life.

2. Councillor Conduct Principles

We endorse and agree to the Councillor Conduct Principles specified in [sections 76B](#) and [76BA](#) of the *Local Government Act 1989*, that is:

2.1 In carrying out our role as councillors, we will:

- Act with integrity; and
- Impartially exercise his or her responsibilities in the interests of the local community; and
- Not improperly seek to confer an advantage or disadvantage on any person.

2.2 In performing our role as councillors, we will:

- Avoid conflicts between his or her public duties as a councillor and his or her personal interests and obligations;
- Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other councillors, council officers and other persons;
- Exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- Endeavour to ensure that public resources are used prudently and solely in the public interest;
- Act lawfully and in accordance with the trust placed in him or her as an elected representative;
- Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of councillor.

3. Councillor Behaviours

We confirm that we will adhere to the following principles of behaviour in our general conduct as councillors:

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

- Treating members of the community with dignity and ensuring that neither offence nor embarrassment are caused
- Treating fellow councillors with respect, particularly when disagreeing with their views or decisions

- Debating contentious issues without resorting to personal acrimony or insult
- Ensuring their punctual attendance at formal Council meetings and Assembly meetings
- Acting with courtesy towards Council staff and avoiding intimidatory behaviour.

3.2 Always acting with integrity and honesty:

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

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

- We will avoid conflicts of interest and comply with the relevant provisions of the *Local Government Act 1989* and this Code of Conduct relating to interests and conflicts of interest (refer 14. Conflict of Interests)
- We will not exercise undue influence on other councillors, members of Council staff or members of the public to gain or attempt to gain an advantage.

4. Role of a Councillor

4.1 We acknowledge and accept the role of a Councillor as specified in [section 65](#) of the *Local Government Act 1989* which articulates the role is to:

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

4.2 In performing our role as a Councillor, we acknowledge and accept that we must:

- consider the diversity of interests and needs of the local community
- observe the principles of good governance and act with integrity
- provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under the *Local Government Act 1989* and other Acts
- participate in the responsible allocation of the resources of Council through the annual budget
- facilitate effective communication between the Council and the community.

4.3 We also acknowledge and accept that the role of a Councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under [section 94A](#) of the *Local Government Act 1989*.

Refer to Local Government Victoria resources [Good Governance Guide](#) and [Ensuring Unbiased Democratic Council Decision Making](#) as useful guides for Councillors.

5. Role of the Mayor

5.1 We acknowledge that [section 73](#) of the *Local Government Act 1989* sets precedence for the Mayor and that:

- the Mayor takes precedence at all municipal proceedings within the municipal district
- the Mayor must take the chair at all meetings of the Council at which he or she is present
- If there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the Councillors to be the acting Mayor
- An acting Mayor may perform any function or exercise any power conferred on the Mayor.

5.2 We acknowledge that the functions of the Mayor include:

- providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under [section 65](#), and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors under [sections 76B, 76BA](#) and [76C](#)
- acting as the principal spokesperson for the Council
- supporting good working relations between Councillors
- carrying out the civic and ceremonial duties of the office of Mayor.

6. Council Decision Making

We are committed to making all decisions impartially and in the best interests of the whole community and acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance. Accordingly:

- 6.1 We will actively participate in the decision making process, striving to be informed to achieve the best outcome for the community;
- 6.2 We will respect the views of the individual in the debate. However, we also accept that decisions are based on a majority vote; and
- 6.3 We accept that no councillor can direct another councillor on how to vote on any decision.

7. Confidential Information

Councillors acknowledge that they will comply with their obligations under [section 77](#) of the *Local Government Act 1989* in relation to confidential briefings or information (as defined under the Act) and recognise that this obligation extends to ensuring the safekeeping of confidential information.

8. Access to and Use of Council Information

8.1 We will treat Council information appropriately, by:

- Not using information gained by virtue of our position as a councillor for any purpose than to exercise our role as a councillor.
- Respecting the Council's policies in relation to public comments and communications with the media (refer 13. Communication).
- Not releasing information deemed 'confidential information' in accordance with [section 77](#) of the *Local Government Act 1989* (refer 7. Confidential Information).

- Recognising the requirements of the [Privacy and Data Protection Act 2014](#) regarding the access, use and release of personal information.

8.2 Councillors acknowledge that all requests made by councillors for briefings from council officers or access to information on council files should be registered and reported. This obligation does not apply to requests for clarification or explanation of items on a forthcoming council agenda.

9. Use of Council Resources (including funds and property)

Council resources are to be used effectively and economically, and in accordance with Council policies.

- 9.1** We will maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role.
- 9.2** We will not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorized to do so, and payments are made where appropriate.
- 9.3** We will not use public funds or resources in a manner that is improper or unauthorised.
- 9.4** We will ensure that internet and email services provided by the Council are used for Council business only. We will abide by the same Information Technology Standard Operating Procedures as that of Council officers.

Refer to Council policy [CP018 Councillor Support, Resources & Facilities](#) and [CP021 Election Caretaker Period](#)

10. Relationships with Staff

- 10.1** As councillors we will work as part of the Council team with the Chief Executive Officer and other members of staff. There must be mutual respect and understanding between councillors and officers in relation to their respective roles, functions and responsibilities.
- 10.2** Our role is one of advocacy and leadership rather than management and administration. The Chief Executive Officer is responsible for all staff matters.
- 10.3** As councillors, we will be aware of the requirements of [section 76E](#) of *Local Government Act 1989* and must not seek to improperly direct or influence members of Council staff in the exercise of their duties. It is appropriate to notify the relevant General Manager when indicated by the Chief Executive Officer when the Chief Executive Officer is unavailable or when the matter is of an urgent nature.

11. Gifts

We will not accept gifts either in our role as councillor or where it could be perceived to influence us in our role as a councillor except:

- 11.1** Where the gift would generally be regarded as only having a token value and could not be perceived to influence our actions as a councillor.
- 11.2** Where refusal may cause offence or embarrassment, in which case we will accept the gift on behalf of the Council and the gift becomes the property of the Council.

Refer to Council policy [CP009 Gifts, Benefits & Hospitality](#).

12. Fraud Prevention

Council is the body responsible for the governance of the municipality. It is responsible for setting the highest standards of honesty and integrity in the provision of services to the community and the management of the organization.

- 12.1** Councillors are committed to the prevention, deterrence, detection and investigation of all forms of fraud.
- 12.2** We will ensure that Management has the appropriate measures in place to detect and prevent fraud.

Refer to Council policy [CP008 Fraud Prevention](#).

13. Communication

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

We will endeavour to ensure that the messages communicated through the media are clear, consistent, open and transparent.

- 13.1** The Mayor will provide official comment to the media on behalf of Council where the matter is of a political, controversial or sensitive nature. This includes:

- State-wide political issues affecting Local Government;
- Contentious local issues that impact the community that do not relate directly to the business of Council but to the representation of the community;
- Issues pertaining to policy and Council decisions;
- Issues relating to the strategic direction of the Council.

The Mayor may nominate another councillor to make official comment on behalf of the Council, where appropriate.

- 13.2** The Chief Executive Officer is the official spokesperson for all operational matters pertaining to the Borough of Queenscliffe as an organisation including:

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

The Chief Executive Officer may nominate a Council officer spokesperson if appropriate.

- 13.3** As individual councillors we are entitled to express independent views through the media, however we will make it clear that any unofficial comment is a personal view, and does not represent the position of the Council as a whole.

14. Conflict of Interest Procedures

- 14.1** The Council is committed to making all decisions impartially and in the best interests of the whole community. It therefore recognises the importance of fully observing the requirements of [sections 77A, 77B, 78, 78A, 78B, 78C, 78D, 78E, 79, 79B, 79C, 79D](#) and [80](#) of the *Local Government Act 1989* in regard to the disclosure of conflicts of interest.

In addition to the requirements of the *Local Government Act 1989*:

- 14.2** We will give consideration to each matter to be considered by the Council, any special committee to which we belong, or assembly of councillors, to ascertain if we have a conflict of interest;
- 14.3** We recognise that the legal onus to determine whether a conflict of interest exists rests entirely with each individual councillor and that Council officers cannot offer any advice in relation to potential conflicts. If we cannot confidently say that we do not have a conflict of interest, we will declare a conflict of interest and comply with the relevant requirements as if we had a conflict of interest;
- 14.4** If we consider that we are unable to vote on a matter because of a conflict of interest, we will notify, as soon as possible, the Mayor or the Committee Chair, depending on whether the matter is to be considered by the Council, a special committee, or an assembly of councillors, as well as the Chief Executive Officer.

15. Dispute Resolution Procedures

- 15.1** Before commencing any formal dispute resolution process, the councillors who are parties to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.
- 15.2** In the event of any dispute occurring where councillors are unable to resolve interpersonal conflicts that adversely affect the operation of the Council, the parties to the dispute agree to work together to try to resolve the dispute and will agree to the appointment of a mediator nominated by the Chief Executive Officer and acceptable to both parties, or failing agreement, nominated by the President of the Municipal Association of Victoria and appointed by the Chief Executive Officer, if they are unable to resolve the dispute within 21 days.
- 15.3** It is mandatory that all councillors who are parties to the dispute attend the mediation and participate to the level required by the mediator.
- 15.4** Where a mediator is appointed, all councillors agree to cooperate with the dispute resolution process and use their best endeavours to assist the mediator when requested.
- 15.5** If the dispute remains unresolved, the parties to the dispute will participate in the internal resolution process where an independent suitably qualified arbiter will be appointed by the Chief Executive Officer and/or Principle Conduct Officer to:
- consider applications alleging a contravention of the Councillor Code of Conduct by a Councillor;
 - make findings in relation to any application alleging a contravention of the Councillor Code of Conduct which the arbiter must give to the Council;
 - give a written statement of reasons supporting the findings to the Councillor at the same time as it gives its findings to the Council;
 - recommend an appropriate sanction or sanctions where the arbiter has found that a Councillor has contravened the Councillor Code of Conduct.
- 15.6** An application to commence the internal resolution process must be made in writing and submitted to the Chief Executive Officer and/or Principal Conduct Officer. 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.

15.7 A Councillor who does not participate in the internal resolution procedure or with a written direction given by the Council at the conclusion of the internal resolution process may be guilty of misconduct. Allegations of misconduct are heard on application by a [Councillor Conduct Panel](#).

15.8 If the dispute relates to an apparent offence under the [Local Government Act 1989](#) it should be referred to the Minister for Local Government and not the subject of an application to a Councillor Conduct Panel.

15.9 The dispute resolution procedure is not intended to resolve differences in policy or decision making, which are appropriately resolved through debate and voting in Council and Committee meetings.

POLICY REVIEW

This policy will be reviewed in accordance with [section 76C\(2\)](#) of the *Local Government Act 1989*, that is within 4 months after a general election.

OTHER REFERENCES

SCHEDULE: Councillor Code of Conduct - Endorsement

[Local Government Act 1989](#)

[Evidence \(Miscellaneous Provisions\) Act 1958](#)

[Privacy and Data Protection Act 2014](#)

[CP009 Gifts, Benefits & Hospitality](#)

[CP008 Fraud Prevention](#)

[CP018 Councillor Support, Resources & Facilities](#)

[CP021 Election Caretaker Period](#)

END

SCHEDULE – CP005 Councillor Code of Conduct - Endorsement

This Code of Conduct was adopted by the Council on {Insert Meeting Date} and is signed by the following councillors:

	<i>Signature</i>	<i>Date</i>
Cr Helene Cameron	_____	_____
Cr Bob Merriman	_____	_____
Cr Peter Russell	_____	_____
Cr Susan Salter	_____	_____
Cr Sue Wasterval	_____	_____
END		