

# COUNCILLOR CODE OF CONDUCT

for

## GLEN EIRA CITY COUNCIL

Adopted by Council on 3 November 2021

### Statement of Acknowledgement

We would like to acknowledge the traditional owners of the Kulin Nation and pay our respect to their Elders past, present and future. We acknowledge Aboriginal people as Australia's first peoples and as the traditional owners and custodians of the land on which we work and live.

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## COUNCILLOR COMMITMENT TO CODE OF CONDUCT

I, as an elected representative for the City of Glen Eira, am committed to undertaking the duties and responsibilities of my office by working together with my fellow Councillors in a positive, collaborative and constructive manner to achieve the goals and vision for our City.

I will uphold the highest standards of governance, demonstrating integrity and pursuing honest, accountable and effective leadership in the interests and advancement of Council and its community.

My behaviour towards my colleagues, the employees of Council and the community impacts the Council's ability to be a successful and highly functioning public authority and for the employees and community to feel pride in the organisation they belong to.

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

This Code was adopted by the Council on 3 November 2021 and will be reviewed in accordance with the *Local Government Act 2020* (Vic) (the **Act**) relevant legislative obligations. Additionally, every twelve months Councillors will informally review this code to ensure that it meets the needs of Council and continues to meet community standards and expectations.

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

.....  
Councillor (insert name)

Declared this 4th day of November 2021 before me

.....  
Rebecca McKenzie  
**Chief Executive Officer**

## **PART A – COUNCILLOR STANDARDS OF CONDUCT**

In performing my role as Councillor, I will adopt the below standards of conduct, as prescribed by the Act and related regulations. I understand that breach of these standards amounts to misconduct under the Act and may result in an application for an internal arbitration process to make a finding of misconduct against me under s141 of the Act.

### **1. TREATMENT OF OTHERS**

I will, 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 I:

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

### **2. PERFORMING THE ROLE OF COUNCILLOR**

I will, in performing the role of a Councillor, do everything reasonably necessary to ensure that I perform the role of a Councillor effectively and responsibly, including by ensuring that I:

- a) undertake 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 use Council processes to become informed about matters which are subject to Council decisions; and
- c) am fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- d) 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

### **3. COMPLIANCE WITH GOOD GOVERNANCE MEASURES**

In performing the role of a Councillor, to ensure the good governance of the Council, I will 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

### **4. COUNCILLOR MUST NOT DISCREDIT OR MISLEAD COUNCIL OR THE PUBLIC**

- 1) In performing the role of a Councillor, I will ensure that my behaviour does not bring discredit upon the Council.
- 2) In performing the role of a Councillor, I will not deliberately mislead the Council or the public about any matter related to the performance of my public duties.

### **5. STANDARDS DO NOT LIMIT PUBLIC DEBATE**

I understand that nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

## **PART B - COUNCILLOR VALUES AND BEHAVIOURS**

### **1. In addition to adopting the above standards of behaviour, in performing my role of Councillor, I will embrace and demonstrate the following:**

#### **1.1. Accountability**

I will take personal responsibility for my conduct, decisions and actions to achieve agreed outcomes. In doing so, I will:

- ensure best use of resources;
- act in an open and transparent manner;
- be responsive.

This includes, for example:

- being aware of the way my conduct impacts on my fellow Councillors, Council staff and the community, including by listening to feedback, seeking to understand before seeking to be understood, and recognising other, non-verbal cues.

#### **1.2. Transparency**

I will make decisions impartially and in the best interests of the community and facilitate active information sharing with my fellow Councillors, Council staff and the community. I will:

- actively participate in the decision-making process and appropriately inform myself of the matter at hand;
- represent my views truthfully and be prepared to discuss how my views were formed;
- respect and support a collective decision of Council once it has been made, even if I do not agree with it; and
- keep the community informed where possible, whilst recognising my obligations regarding Confidential Information under the Act.

This includes, for example:

- abiding by the Act and Governance Rules;
- keeping my fellow Councillors informed and avoiding surprises.

### **1.3. Collaboration**

I will value the contribution and individuality of others and contribute to healthy working relationships, even if sometimes we don't share the same opinion. In doing so, I will:

- show respect when interacting with, speaking to and about others;
- empower my fellow Councillors and Council staff to speak up by listening to and valuing their contribution;
- be courteous and approachable and respect others' boundaries;
- provide my fellow Councillors with the information they need to effectively perform their role;
- positively contribute to, and participate in, Councillor group activities;  
and
- actively listen to, consider and debate another's ideas constructively, which may be different to my own.

This includes, for example:

- treating a fellow Councillor or another individual as I would like to be treated;
- refraining from taking matters personally;
- not interrupting another when they are speaking unless to call a point of order in accordance with the Governance Rules;
- raising a concern with the individual first, before raising it in a group;  
and
- being open to and respectful of advice from Council staff.

## **1.4. Efficiency**

I will aim to achieve the highest standard and continuously improve performance to achieve the best possible outcomes for the City of Glen Eira. In doing so, I will:

- strive for improvement;
- understand what is required of me in my role as Councillor and seek support when needed;
- be open to exploring new ideas and ways of doing things, and compromise; and
- present and debate ideas and innovations to the best of my ability.

This includes, for example:

- undertaking any training and development necessary to meet the obligations and standards expected of me.

## **1.5. Community Engagement**

In all my dealings with the community I will treat all members of the community with courtesy and respect, recognising that the community has high expectations of me as an elected representative. In doing so, I will:

- listen to members of the community;
- act with honesty and integrity;
- manage expectations of members of the community to ensure I am providing a realistic picture of what I can achieve as a Councillor.

This includes, for example:

- being responsive to the needs of the community; and
- cooperating with any process initiated under the Council's Complaints Handling Policy regarding a complaint made by a member of the community.

## 2. Specific councillor conduct obligations

The following section sets out specific conduct obligations, some of which are the subject of Council policies and protocols or imposed by legislation. I also understand that the Act sets out specific requirements in relation to the role of a [Council](#), [Councillor](#), [Mayor](#) and [Chief Executive Officer](#). I understand that as a Councillor I should not be involved in the operational decisions of the Council.

I acknowledge and agree that Council policies, protocols 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. Conflict resolution

I recognise that the democratic process of local government involves holding, and expressing, different and sometimes opposing viewpoints. Although I will strive to engage in positive, constructive and respectful interactions, I understand that conflict and/or disputes may arise.

I recognise that I hold an individual and collective responsibility to resolve disputes in a proactive, positive, courteous and confidential manner before they are escalated, to avoid such disputes threatening the effective operation of Council or reputational damage to Council. I will:

- raise concerns with my fellow Councillors in a timely and respectful manner;
- actively listen and consider any concerns raised by my fellow Councillors, including any raised about my conduct;
- cultivate self-awareness about my conduct and how it impacts others;
- increase my understanding of my fellow Councillors and modify my own behaviour to accommodate our differences where required;
- recognise that when considering whether I or another Councillor has met their obligations under the Code of Conduct, an objective standard or “reasonable person test” applies;
- recognise that although we are working towards a common goal, we may have different ideas of how to get there;

- commit to adopting a resolution-focused approach to conflict, aimed at maintaining effective working relationships and a safe and healthy working environment for all; and
- be open to exploring all internal conflict resolution options before engaging in external processes.

## **2.2. Use of Council information**

I acknowledge that information which is “confidential information” within the meaning of the Act may not be disclosed by me except in certain specified circumstances. I recognise that the disclosure of confidential information may amount to serious misconduct and an offence under [s123](#) of the Act.

I am aware that Council information may also be subject to other legislation including the *Health Records Act 2001* (Vic), *Privacy and Data Protection Act 2014* (Vic) and *Freedom of Information Act 1982* (Vic).

The Confidentiality Policy refers to dealing with confidential information.

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.

## **2.3. Communications and Social Media**

Councillors have an obligation to effectively and satisfactorily communicate the decisions of Council and to respond to the community as required. To ensure that clear and consistent messages are communicated, the [Councillor Communications and Media Protocol] sets out the management of media enquiries, release of information and nominated spokespersons.

I will comply with the [Councillor Communications and Media Protocol] and respect the roles of Council’s official spokespersons. When communicating with the media and/or the public, I will be mindful of the need to maintain public trust in the Council. I will ensure any communications I make, regardless of whether personal or in my official capacity, are consistent with Council decisions, and are not offensive, derogatory, insulting or otherwise damaging to the reputation of Council or any other person.

## **2.4. Conflict of interest**

Sections 126 - 131 of the Act require each Councillor to 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 this at the commencement of any discussion on the matter. I will seek advice from the Chief Executive Officer or other appropriate person if I need assistance on interpretation of the legislative provisions and will be open to hearing if there are contrary views about whether a conflict of interest exists.

## **2.5. Gifts and hospitality**

I commit to compliance with the [Councillor Gift Policy] which fully sets out my obligations in relation to these matters.

## **2.6. Reporting fraud and corruption**

Ethical behaviour is an integral part of responsible, effective and accountable government. I acknowledge Council's obligations under the *Public Interest Disclosures Act 2012* to facilitate the making of disclosures of improper conduct by public officers and public bodies, including Council, its employees and Councillors.

I will immediately report to the Chief Executive Officer and/or appropriate integrity body, in line with the Council's *Public Interest Disclosure Policy*, any suspected, potential or actual fraudulent, criminal, unethical or corrupt behaviour that comes to my knowledge. I will participate as required to the best of my ability in any subsequent investigation whether undertaken internally or externally.

## **2.7. Councillor and Staff interactions**

I have read and understood the requirements of [s124](#) of the Act and I will not seek to direct or improperly influence members of Council staff in the exercise of their duties. I will follow all policies which govern interactions between Councillors and the Chief Executive Officer, senior management and other employees and cooperate with any investigation initiated by the Chief Executive Officer under these policies.

## **2.8. Occupational health and safety**

Council is committed to providing and maintaining a safe workplace for all and recognises the provisions of the *Occupational Health and Safety Act 2004* (OHSA) apply to Council and Councillors. The Chief Executive Officer has a clear accountability for OHS matters, given their mandate under the Act, and will put policies 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:

- take reasonable care to protect my own health and safety as well as the health and safety of others in the workplace;
- take reasonable care to make sure Council carries out its general duties to do what is reasonably practicable to ensure a safe workplace;
- cooperate with any investigation initiated by the CEO at their own initiative due to health and safety concerns (see Appendix 1);
- undertake training, through Council, in order to obtain an understanding of the duties and obligations imposed by the OHSA and their application to the broad range of activities undertaken by the City of Glen Eira; and
- consider any health and safety implications of Council decisions.

## **2.9. Child Safe Standards**

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 including Failure to Disclose, Failure to Protect and Grooming offences. Any allegation or incident of abuse will be treated very seriously and consistently with child protection legislation, regulations and guidelines and in accordance with Council policy and procedures. 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;
- uphold the rights and best interests of the child and take these matters into account in all decision making;
- maintain a valid WWCC whilst in my role as Councillor.

## **PART C – DISPUTE RESOLUTION**

### **3. PURPOSE AND SCOPE**

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

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; and
- 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 *Protected Disclosures Act 2012* (Vic).

#### **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 additional 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, as defined by the Act.

For the purposes of this part –

- 'Councillor Conduct Officer' refers to an appropriately qualified person appointed by the CEO upon considering recommendations of Council, who assists Council in the implementation and conduct of the internal resolution procedure in the Code.
- This procedure does not deal with allegations of criminal misconduct as they are envisaged to be raised through alternative 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.

#### **3.1. Responsibilities**

##### **Mayor**

The Mayor has a responsibility to:

- establish and promote appropriate standards of conduct;

- support good working relations between councillors; and
- support councillors in dispute resolution through intervening or seeking further advice about the best options in the circumstances.

### **Councillor Conduct Officer**

The Councillor Conduct Officer has a responsibility to:

- assist Council in the implementation and conduct of the internal resolution procedure, including the internal arbitration process under the Act;
- assist the Principal Councillor Conduct Registrar to perform the functions specified in Section 149 of the Act.

### **Chief Executive Officer**

The Chief Executive Officer has a responsibility to:

- ensure that support and assistance is available to all Councillors, and the Councillor Conduct Officer, where it is required.

### **Councillors**

Councillors have a responsibility to:

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

## **3.2. Councillor disputes - Informal resolution between parties**

Before commencing a formal dispute resolution process, the Councillors who are parties to a dispute are encouraged to use their best endeavours to resolve their issue or dispute in a courteous and respectful manner between themselves, and to avoid the issue escalating and threatening the effective operation of Council. Councillors should have regard to their commitment to conflict resolution set out at section 2.1 above.

Where the issue relates to potential disrespectful conduct and depending on the circumstances, the Councillor raising the issue may consider at first instance, in a confidential way, asking the other Councillor(s) to stop the behaviour or modify their approach.

Where the issue or dispute remains unresolved, the parties may resort to Council's internal dispute resolution processes set out below.

## 4. INTERNAL DISPUTE RESOLUTION BETWEEN COUNCILLORS

This section sets out the processes for a Councillor or Councillors to raise concerns regarding the conduct of another Councillor.

### 4.1. Interpersonal disputes

Interpersonal disputes between Councillors involve conflict where there may be a breakdown in communication, a misunderstanding, a disagreement between Councillors, or strained working relationships. These conflicts may include allegations of disrespectful conduct.

To raise a concern that a Councillor has breached the Code in relation to an interpersonal dispute, a Councillor(s) should set out their concerns in writing (the Application) to the Councillor Conduct Officer, requesting that the matter be dealt with under the dispute resolution procedure. Such written Application should include the name of the other Councillor and the details of the issue or dispute.

The Councillor Conduct Officer, will notify the other Councillor(s) of the Application, and provide them with a written copy of the request.

#### **Approach to resolution:**

Where there is an interpersonal dispute between Councillors, they have the option of requesting:

- **Resolution Discussion** - with one of the following in attendance and facilitating the discussion: the Mayor or Councillor Conduct Officer; or
- **Mediation** - with an external mediator.

See Appendix 1 for further information regarding these options.

### 5.1 Allegation by a Councillor of conduct in breach of the Code

An allegation that a Councillor has contravened the Code of Conduct may include a failure to disclose a conflict of interest, breach of confidentiality, improper direction of staff, use of Council resources, or breach of the Councillor Standards of Conduct.

To report an allegation that a Councillor engaged in conduct in breach of the Code, a Councillor(s) must prepare an Application to the Councillor Conduct Officer. The Application must:

- specify the name of the Councillor who is the subject of the allegation or complaint;
- specify the provision(s) of the Code and/or relevant Council policy or protocol that the allegation relates to;

- 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.

**Approach to resolution:**

Where a Councillor raises an allegation of conduct in breach of the Code against another Councillor, they have the option of requesting:

- **Resolution Discussion** - with one of the following in attendance and facilitating the discussion: the Mayor or Councillor Conduct Officer; or
- **Mediation** - with an external mediator, via an application to the Councillor Conduct Officer
- **Investigation** – by an independent investigator appointed by the Chief Executive Officer (CEO)
- **Arbitration** under [s141](#) of the Act

See Appendix 1 for further information regarding these options.

# APPENDIX 1 – DISPUTE RESOLUTION OPTIONS

## 1 DISPUTE RESOLUTION OPTIONS

### 1.1 Resolution Discussion

Where Councillors who are in dispute have not been able to resolve their dispute informally between themselves, a party may request in writing that the Councillor Conduct Officer (**CCO**) or Mayor (the 'Convenor') convene a confidential meeting of the parties to discuss the dispute.

The Councillor requesting the meeting is to provide the Convenor with the name of the other Councillor and the details of the dispute in writing. They should also notify the other Councillor of the request and provide a copy of the written request to them.

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

If the other Councillor 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 Councillor consents to a meeting, the Convenor is to hold a confidential meeting of the parties.

Unless one or both parties are unavailable, this should be arranged within ten working days of receipt of the meeting request.

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

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

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. The Convenor may also recommend that the parties undertake further training.

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, a party may request mediation or arbitration.

## **1.2 Mediation**

A Councillor or a group of Councillors may request that their dispute be referred to mediation. The mediation would be conducted by an external accredited mediator.

The party seeking the mediation is to notify the other party of the request and details of the dispute in writing at the same time that it is submitted to the CCO.

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

If the other party agrees to participate in a mediation, the CCO is to advise the party seeking the mediation, the Mayor and Chief Executive Officer.

The CCO will engage the services of an external mediator to conduct the mediation at the earliest opportunity.

Prior to the mediation meeting, the mediator should conduct an intake session with each party separately. The purpose of this session is to prepare the parties for the mediation, encourage them to consider interests rather than positions, and assist the parties to take a broader view of resolution options.

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

If the parties cannot resolve the dispute at the mediation meeting, a further mediation meeting may be convened with the consent of both parties.

The mediator is to document any agreement reached. Copies of the agreement are to be provided to both parties and the CCO. The mediator may also make recommendations to the parties that one or both undertake further training.

Where the dispute remains unresolved, and relates to an alleged breach of the Standards of Conduct in Part B, a Councillor may request the appointment of an arbiter.

### **1.3 APPOINTMENT OF AN ARBITER**

The Internal Arbitration process applies to any breach of the standards of conduct set out in Part B above, as prescribed by the Act. Such conduct constitutes misconduct under the Act.

Complaints involving allegations of [serious misconduct](#) (as defined by the Act) that cannot be resolved via the internal processes above should be referred to the Principal Councillor Conduct Registrar, who will consider whether it is necessary to convene a Councillor Conduct Panel.

An arbitration involves a party (the Applicant) to a dispute requesting the Principal Councillor Conduct Registrar (**PCCR**) appoint an impartial third party (the Arbiter) to make findings in relation to allegations concerning another Councillor(s) (the Respondent) and whether they have breached the Councillor Standards of Conduct.

The process to be followed by the PCCR in considering the Application and the Arbiter in hearing the Application is set out in ss [141 – 147](#) of the Act.

The Arbiter's decision and statement of reasons must be tabled at the next Council meeting and recorded in the minutes of the meeting.

### **1.4 INVESTIGATION**

A Councillor or group of Councillors may make a request that the Chief Executive Officer initiate an investigation in respect of allegations that a Councillor has contravened the Code of Conduct.

In instances where there may be serious concerns about a risk to health and safety of a Councillor, Councillors, Council staff or the community the CEO may initiate the investigation at his or her own initiative.

After receiving a request from the Councillor, or at the CEO's own initiative in relation to a serious risk to health and safety, the CEO will obtain legal advice from Council's Legal Counsel or from Council's external legal advisor as to whether or not the complaint should be investigated.

The legal advice will consider the merits of the complaint and whether the allegation(s), if substantiated, would amount to a breach of the Code or Council's policies or procedures. The advice will also address whether an investigation will unreasonably expose Council to legal liability and/or damage to its reputation. A confidential and legally privileged investigation will only be recommended if it is in the best interests of Council. Matters which are frivolous, vexatious or that appear to be politically motivated will not be investigated.

If the legal advice recommends investigation of the complaint, the CEO will appoint a suitably qualified investigator to investigate the allegation(s). The investigator will adopt a fair process and conduct a thorough and impartial investigation in accordance with natural justice principles.

Councillors will cooperate with the investigation and attend interviews with the investigator if requested. The respondent(s) to the allegation(s) will be given an opportunity to respond to the allegation(s) and submit evidence in support of their response.

At the conclusion of the investigation, the investigator will provide their confidential written report (the investigation report) to Council's legal advisors including the investigator's findings in relation to the allegation(s). If an allegation is substantiated, the investigator will make a finding as to whether the substantiated conduct would amount to a breach of the Code or Council's policies or procedures.

Following the investigation, the CEO may, following the receipt of legal advice, recommend to Council that appropriate remedial action be taken including:

- further training for Councillor(s);
- a request that a Councillor make an apology in a particular form or manner to an individual or group;
- a public statement by Council regarding the findings of the investigation report; or
- referral of the matter to the Principal Councillor Conduct Registrar.