

**GLEN EIRA CITY COUNCIL**

**CONDUCT REFERENCE GROUP**

**TERMS OF REFERENCE AND OPERATING GUIDELINES**

**PREAMBLE**

To ensure best outcomes for the City of Glen Eira and its operation, a Councillor Conduct Reference Group (CRG) has been established. The CRG is established to provide all Councillors with an avenue to escalate concerns about Councillor conduct. The Terms of Reference and Operating Guidelines are subject to the requirements of the Local Government Act 1989 (as amended from time to time) and other applicable legislation.

**1. Role and functions of the Councillor Reference Group**

- A. The CRG provides an avenue to manage concerns regarding Councillor conduct. The CRG is a process which is available under clause 7.1.3 of the Councillor Code of Conduct. It is not a compulsory process and no Councillor can be forced to participate in the CRG process. However, failure to participate will not preclude the CRG from meeting and deliberating in accordance with these Terms of Reference and Operating Guidelines.
- B. The CRG provides an informal process for conflict resolution and is available to deal with matters within its terms of reference prior to the commencement of any internal mediation under clause 7.2 of the Councillor Code of Conduct. Once clause 7.2 is invoked, the CRG cannot be convened.
- C. Matters which may be the subject of a CRG process include:
- disputes between Councillors
  - conduct by a Councillor which may have breached the General Conduct Obligations in clause 5 of the Councillor Code of Conduct
  - behaviour by a Councillor which impedes the process of good governance.
- D. Where a matter or dispute involves a number of Councillors or involves a contentious or political matter, it may be considered that the CRG cannot be successfully used and is unavailable in the circumstances. The decision on this will reside with the CRG. The CRG will not be convened during the caretaker period.
- E. The CRG may be convened by resolution of the Council, at the request of the Mayor, or at the request of one or more Councillors. The CRG acts collectively, and none of its members may undertake any of the functions as an individual without the authorisation of the group.
- F. The CRG must act within the guidelines and use natural justice principles to examine Councillor conduct.

G. The CRG will perform the following functions:

- hear, investigate and consider concerns raised by Councillor/s about the conduct of one or more Councillors;
- provide the Mayor and/or the Council with a report about that conduct including, where required, a recommendation on how to manage that conduct;
- issue a written warning to Councillor/s when behaviour is perceived to be inconsistent with the Councillor Code of Conduct, the Local Government Act 1989 or any other relevant legislation including without limitation the Occupational Health and Safety Act 2004 and the Equal Opportunity Act 2010;
- provide the Mayor with advice to assist in the oversight and promotion of good relationships;
- mentor or provide counsel to a Councillor following an investigation, report and recommendation;
- assist the Mayor and the Council in determining, subject to relevant legislation, the need to take further action concerning the conduct of Councillor/s including a referral of conduct to a Councillor Conduct Panel within the requirements of the Local Government Act 1989; and
- undertake any other activity related to the above within the limitation of the terms of reference and operating guidelines.

## **2. Natural Justice Principles of Decision Making**

A. The CRG must operate in accordance with the following fundamental principles of natural justice:

- any person the subject of an investigation must be advised of the nature and substance of the allegations against them;

-all parties should be given a fair opportunity to be heard before a conclusion or recommendation is made; and

- the CRG members must not have predetermined the matter or be reasonably perceived as having predetermined the matter.

B. The CRG members must ensure that they have considered all the available evidence and information before coming to any final conclusions or recommendations.

## **3. Operating process of the CRG**

A. The CRG will be convened as set out in 1E above.

B. The CRG may develop its own procedures for managing an investigation.

C. The CRG may request the provision of all relevant information and documentation.

- D. Councillors who are requested to provide information and documents should use their best endeavours to provide them within the requested timeframes.
- E. Meetings between the CRG and a Councillor the subject of the meeting will be conducted in an informal manner with a commitment to honest and open discussions.
- F. All Councillors involved in the process as members of the group or the subject of conduct matter will participate in good faith in the process.
- G. The CRG will provide their report within a reasonable time period of meeting and deliberating.
- H. The CRG recommendations should be respected and acknowledged in the spirit of the good governance principles in the Councillor Code of Conduct.
- I. The CRG recommendations are not binding or enforceable but may form the basis of a Council resolution.

#### **4. Membership of the CRG**

- A. The CRG will comprise three (3) members appointed from the Councillor group, but excluding the Mayor.
- B. Membership of the CRG will be determined by the Council at twelve monthly intervals .
- C. The Mayor of the day will act as an alternate member if there is a conflict of interest in the membership of the CRG, including where a member of the CRG is a party to the matter being considered.

#### **5. Review**

The terms of reference and operating guidelines, functions and effectiveness of the CRG will be reviewed annually by the Councillor group.

Established by Council resolution on 30 August 2016