



Councillor Code of Conduct 2017

BS – SRC – 01

**BALLARAT CITY COUNCIL
Town Hall
Sturt St
Ballarat VIC 3350
Tel. 5320 5500**

TABLE OF CONTENTS

1	DOCUMENT CONTROL INFORMATION	3
2	POLICY STATEMENT	4
2.1	INTENT	4
2.2	STATEMENT	4
2.3	OBJECTIVES:	4
3	OWNER.....	4
4	APPLICABILITY	4
5	DEFINITIONS.....	5
6	PROCEDURE AND GUIDANCE NOTES.....	6
6.1	ROLES AND RELATIONSHIPS	6
6.1.1	COUNCIL.....	6
6.1.2	COUNCILLORS	6
6.1.3	MAYOR	7
6.1.4	COMPLIANCE AND ADMINISTRATION	7
6.1.5	CHIEF EXECUTIVE OFFICER.....	7
6.2	PRINCIPLES OF COUNCILLOR CONDUCT	8
6.2.1	HONESTY	8
6.2.2	INTEGRITY.....	8
6.2.3	OBJECTIVITY	8
6.2.4	DILIGENCE	9
6.2.5	RESPECT	9
6.2.6	TRANSPARENCY	9
6.2.7	TEAMWORK.....	9
6.3	CONDUCT OBLIGATIONS	10
6.3.1	FAIRNESS AND EQUITY	10
6.3.2	HARASSMENT AND DISCRIMINATION.....	10
6.3.3	DEVELOPING POLICY.....	10
6.3.4	GUIDE TO ETHICAL DECISION MAKING	10
6.3.5	COUNCILLOR EXPENSES.....	11
6.3.6	MISUSE OF POSITION OR INFORMATION.....	11
6.3.7	PERSONAL DEALINGS WITH COUNCIL.....	11
6.4	INTERACTIONS WITH COUNCIL STAFF	12
6.5	MEETING CONDUCT.....	12
6.6	DISCLOSURE OF INTEREST AND CONFLICT OF INTEREST	12
6.7	DISPUTE RESOLUTION	13
6.8	COUNCILLOR MISCONDUCT.....	17
6.9	CARETAKER PERIOD	18
6.10	DECLARATION BY COUNCILLOR	19
6.11	APPENDIX A – SECTION 76B, 76BA & 76D(1) – RULES OF CONDUCT	20
6.12	APPENDIX B – SECTION 55D – PROHIBITION ON COUNCIL	22
6.13	APPENDIX C – SECTION 93A – CONDUCT OF COUNCIL	22
7	COMPLIANCE RESPONSIBILITIES	23
8	CHARTER OF HUMAN RIGHTS COMPLIANCE	23
9	REFERENCES AND RELATED POLICIES	23

1 DOCUMENT CONTROL INFORMATION

DOCUMENT CONTROL

Policy Name	<i>Councillor Code of Conduct</i>
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Draft Review	5	Jan 2017	Executive Manager Safety, Risk and Compliance Services
Approved			

2 POLICY STATEMENT

2.1 INTENT

As custodians of the City of Ballarat, the Capital of Western Victoria, the Mayor, Deputy Mayor and Councillors hold an important leadership role within the community. The role is recognised in the *Local Government Act 1989* (the Act) which describes how the Council is to be accountable in the performance of its functions, the exercise of powers and the use of resources. The Act specifies the role, function and objectives of Council, Councillors and the Chief Executive Officer.

The Act sets out standards of conduct for Councillors and provides specific arrangements to deal with alleged misconduct. These are outlined in this Councillor Code of Conduct.

2.2 STATEMENT

The Mayor, Deputy Mayor and Councillors commit to carrying out their roles to the highest standards of conduct and behaviour. As part of this commitment, all Councillors will adhere to the conduct principles, values and processes outlined in this Councillor Code of Conduct.

This Code of Conduct has been adopted to assist Councillors in meeting their responsibilities, by setting down the standards of conduct for Councillors in the City of Ballarat so as to ensure that the conduct of Councillors is legal, ethical and appropriate at all times.

2.3 OBJECTIVES:

As the performance of Council and the wellbeing of the City of Ballarat community are directly affected by the conduct of the City's elected Councillors, the community is entitled to expect that:

- the business of Council is conducted with efficiency, impartiality, transparency and integrity;
- Councillors obey the spirit and letter of the law in particular, the provisions of relevant statutes, regulations, local laws and instruments; and
- responsibility to the community is always to be given absolute priority over the private interests of Councillors.

3 OWNER

The owner of this policy is the Chief Executive Officer.

All enquiries regarding this policy should be initially directed to Safety, Risk and Compliance Services.

4 APPLICABILITY

This policy applies to all Councillors and Officers.

In accordance with section 63 of the Act, a person elected to be a Councillor is not capable of acting as a Councillor until the person has taken the oath of office specified in the Act and read this Code and made a declaration stating that they will abide by the Code.

5 DEFINITIONS

Act	Local Government Act 1989
CEO	Chief Executive Officer of Council
CMI	Chief Municipal Inspector
Council Plan	a four-year plan setting out the strategic directions of the Council
Council officer/s	means a member of Council staff
Councillor Conduct Panel	a panel appointed by the Registrar to hear an application that alleges misconduct or serious misconduct by a Councillor.
LGPro	Local Government Professionals
LGV	Local Government Victoria
MAV	Municipal Association of Australia
Principal Conduct Officer	the officer appointed by the CEO to assist Council with the implementation and conduct of the Council's internal dispute resolution procedure.
Principal Councillor Conduct Registrar	a person appointed by the Secretary of Department of Environment, Land, Water and Planning (DELWP) to receive and assess applications to establish a Councillor Conduct Panel
The Act	the Local Government Act 1989
VCAT	Victorian Civil and Administrative Tribunal

6 PROCEDURE AND GUIDANCE NOTES

6.1 ROLES AND RELATIONSHIPS

As stipulated in Section 3C of the Act, the primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions. In order to achieve this outcome, the Act provides guidance on the roles relationship required.

6.1.1 COUNCIL

The role of Council, as set out in section 3D(2) of the Act, is:

- a. *acting as a representative government by taking into account the diverse needs of the local community in decision making;*
- b. *providing leadership by establishing strategic objectives and monitoring their achievement;*
- c. *maintaining the viability of Council by ensuring that resources are managed in a responsible and accountable manner;*
- d. *advocating for the interests of the local community to other communities and governments;*
- e. *acting as a responsible partner in government by taking into account the needs of other communities; and*
- f. *fostering community cohesion and encouraging active participation in civic life.*

6.1.2 COUNCILLORS

The City of Ballarat is governed by nine Councillors who are democratically elected to represent three wards.

Section 65(1) of the Act states that the role of a Councillor is:

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

Section 65(2) of the Act states that in performing the role of a Councillor, a Councillor must:

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

6.1.3 MAYOR

Section 73AA of the Act states that the functions of the Mayor of a Council include:

- a. providing guidance to Councillors about what is expected of a Councillor*
- b. 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;*
- c. acting as the principal spokesperson for the Council;*
- d. supporting good working relations between Councillors; and*
- e. carrying out the civic and ceremonial duties of the office of Mayor.*

6.1.4 COMPLIANCE AND ADMINISTRATION

Key governance responsibilities of Council include:

- a. developing and adopting a Council Plan which sets out the strategic objectives of Council and strategies for achieving them over at least the next four years, a requirement under section 125 of the Act;*
- b. approving the annual Budget;*
- c. developing and adopting policies covering key programs and services (including home and community care, maternal and child health, waste management, town planning);*
- d. hosting and engaging in numerous community forums, activities and events; and*
- e. making representations to the Federal and State governments, parliamentary inquiries, peak local government bodies etc in order to advocate for the interests of the City of Ballarat community.*

6.1.5 CHIEF EXECUTIVE OFFICER

Within this framework of strategic leadership, advocacy and representative government, sections 94 and 94A of the Act provide for the establishment of the position and duties of the Chief Executive Officer who is to be responsible for:

- a. establishing and maintaining an appropriate organisational structure for Council;*
- b. ensuring that the decisions of Council are implemented without undue delay;*
- c. the day to day management of Council's operations in accordance with the Council Plan;*
- d. developing, adopting and disseminating a code of conduct for Council staff;*
- e. providing timely advice to Council; and*
- f. appointing and managing all Council staff and managing all issues that relate to Council staff.*

6.2 PRINCIPLES OF COUNCILLOR CONDUCT

Councillors have a duty to promote and support these Councillor Conduct Principles as a leadership example and to act in a way that secures and preserves public confidence in the office of Councillor.

6.2.1 HONESTY

Councillors commit to:-

- a. making decisions solely in the public interest;*
- b. not acting in order to gain benefits for themselves, their family, friends, external interests or personal business interests;*
- c. avoiding statements (whether oral or in writing) or actions that will or are likely to mislead or deceive; and*
- d. acting lawfully and in accordance with the trust and expectations placed in them as elected representatives.*

6.2.2 INTEGRITY

Councillors commit to:

- a. act with integrity and uphold strong moral principles;*
- b. impartially exercise their responsibilities in the interests of the City of Ballarat community;*
- c. not improperly seek to confer an advantage or disadvantage on any other person;*
- d. not place themselves under any financial or other obligation to any individual, interest group or organisation that might reasonably be thought to influence them in the performance of their duties as Councillors;*
- e. avoid conflicts between their public duties as a Councillor and their personal interests and obligations;*
- f. declare any private interests or conflicts of interest as required by the Act relating to their public duties and take steps to resolve any conflicts arising in such a way that protects the public interest; and*
- g. endeavour to ensure that public resources are used prudently and solely in the public interest.*

6.2.3 OBJECTIVITY

Councillors are accountable to the public for their decisions and actions. Decisions must be made solely on merit and in accordance with statutory obligations.

6.2.4 DILIGENCE

Councillors commit to:

- a. *exercise reasonable care and diligence. This includes reading and familiarising themselves with papers for consideration at Council Meetings and Assemblies of Councillors;*
- b. *not purport to offer or communicate anything which could only be offered or communicated by a collective decision of Council or a decision of Council's delegate; and*
- c. *submit themselves to the lawful scrutiny that is appropriate to the office of Councillor.*

6.2.5 RESPECT

Councillors commit to:

- a. *treat each other and all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council officers and other persons; and*
- b. *as a member of Council, respect the decision making processes of Council which are based on decisions of the majority of Councillors.*

6.2.6 TRANSPARENCY

In most instances, Councillors have a responsibility to be transparent in relation to decisions and actions. Reasoning, where permitted by the Act and Local Laws, should be provided, and restriction of information should only occur when in the interests of the wider community.

6.2.7 TEAMWORK

Decisions by Council members are collective decisions based on a majority of Councillors. Councillor decisions are made in properly constituted Council Meetings. In lead up discussions, such as those that occur at Assemblies of Councillors, which are not open to the public, Councillors may explore a range of positions and express a range of different views. Those views must not be reported outside of those meetings. To do so discourages full discussion of issues. Councillor's accountability rests with their vote and statements in support of their vote at the time the meeting is decided in the properly constituted Council Meeting.

6.3 CONDUCT OBLIGATIONS

6.3.1 FAIRNESS AND EQUITY

Councillors must consider issues impartially and fairly by taking into consideration all relevant facts known to them. Councillors must have regard to the specific merits of each case and must not take irrelevant matters or circumstances into consideration when making decisions.

6.3.2 HARASSMENT AND DISCRIMINATION

Councillors must not harass, bully, vilify, or discriminate against colleagues, Council staff or members of the public. They also must discourage others from doing so. This behaviour may include harassment and discrimination on the grounds of: age; breastfeeding; employment activity; gender identity; disability; industrial activity; lawful sexual activity; marital status; parental status or status as a carer; physical features; lawful political belief or activity; pregnancy or potential pregnancy; race, colour, nationality, ethnicity or national origin; lawful religious belief or activity; sex; sexual orientation; gender identity; personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes; and an assumption that a person possesses one of the attributes listed above.

6.3.3 DEVELOPING POLICY

As elected representatives, one of the most important responsibilities of Councillors is to make decisions on priorities, directions and policy. These decisions often involve making choices between competing interests, many of which may be worthy. Councillors must make these decisions in accordance with the best interests of the community as a whole.

6.3.4 GUIDE TO ETHICAL DECISION MAKING

If Councillors are unsure about the ethical issues involving an action or decision, consideration should be given to the following:

- a. *Is the decision or conduct lawful?*
- b. *Is the decision or conduct consistent with Council's policies, objectives, and the principles of this Code of Conduct?*
- c. *What will the outcome be for the community, Council, a Councillor(s) and any other parties?*
- d. *Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?*
- e. *Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?*

Should there be any uncertainty about the ethical nature of any action or decision, Councillors should seek advice from appropriate Council staff or an external body which may include: the independent members of the Audit Committee; the Municipal Association of Victoria; the Victorian Local Governance Association or the relevant Government Departments.

6.3.5 COUNCILLOR EXPENSES

Councillors commit to:

- a. *only claim for expenses that are reasonable bona fide Councillor out-of-pocket expenses incurred while performing duties as a Councillor or in a manner prescribed by Council;*
- b. *apply in writing to Council for reimbursement of expenses;*
- c. *use Council facilities and equipment economically and efficiently;*
- d. *except in accordance with any policy of Council, not use Council facilities, equipment and resources for personal benefit or for the benefit of any other person or organisation; and*
- e. *ensure that Council facilities and equipment are kept separate from similar resources that may be used in a Councillor's private business activities.*

In making any claim for reimbursement of expenses, Councillors acknowledge that section 75(2) of the Act defines duties as a Councillor as duties performed by a Councillor that are necessary or appropriate for the purposes of achieving Council's objectives, having regard to any relevant Act, regulation, Ministerial guidelines or Council policies.

6.3.6 MISUSE OF POSITION OR INFORMATION

Councillors commit not to misuse their position:

- a. *to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person;*
- b. *to cause, or attempt to cause detriment to the Council or another person;*
- c. *by making improper use of information acquired as a Councillor;*
- d. *by disclosing information that is confidential information within the meaning of section 77(2) of the Act;*
- e. *by directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E of the Act;*
- f. *by exercising or performing, or purporting to exercise or perform, a power, duty or function that they are not authorised to exercise or perform; or*
- g. *by using public funds or resources in a manner that is improper or unauthorised.*

6.3.7 PERSONAL DEALINGS WITH COUNCIL

When Councillors deal with Council in their private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) they must not expect nor will they request preferential treatment in relation to any such private matter. Councillors must avoid any action that could lead Council staff or members of the public to believe that they are seeking preferential treatment.

6.4 INTERACTIONS WITH COUNCIL STAFF

Councillors acknowledge Section 95 of the Act which requires Council Staff to:

- a. act impartially;*
- b. act with integrity including avoiding conflicts of interest;*
- c. accept accountability; and*
- d. provide responsive service*

Council staff are accountable to the Chief Executive Officer. Councillors acknowledge Section 94A of the Act, which stipulates that the Chief Executive Officer is responsible for appointing, directing, managing and all other issues related to Council staff.

Reports provided by Council Officers are based on experience, qualifications, knowledge and skill. Whilst Councillors have the right to decide whether to accept the advice submitted, Councillors cannot direct a Council Officer to change a report.

6.5 MEETING CONDUCT

Councillors must conduct themselves in accordance with Local Law 18 in relation to Meeting Procedures during Council and Committee Meetings.

During all properly constituted Council Meetings and Assemblies of Councillors (whether statutory or informal), Councillors must conduct themselves appropriately in order to assist the Meeting or Assembly to deal with its agenda and conduct its business in an orderly fashion, behaving consistently with the principles set out herein. Councillors must respect the Chair, other Councillors, officers, third parties in attendance and any members of the public.

6.6 DISCLOSURE OF INTEREST AND CONFLICT OF INTEREST

For the purpose of this Code of Conduct, "conflict of interest" has the meaning specified in the Act. Councillors must comply with all the provisions of sections 77A-79B and 80A of the Act in regard to conflicts of interest, in particular:

If a Councillor has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or a Special Committee, the Councillor must, if he or she intends to be present at the meeting, disclose the conflict of interest in accordance with section 79(2) of the Act, by either:

- a. advising Council or the Special Committee at the meeting of the details required under section 79(2)(b) and (c) of the Act immediately before the matter is considered at the meeting; or*
- b. advising the Chief Executive Officer in writing of the details required under section 79(2)(d) of the Act.*

A Councillor who has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or a Special Committee must:

- a. *classify the type of interest that has given rise to the conflict as either—*
 - i. *a direct interest; or*
 - ii. *an indirect interest, specifying the particular kind of indirect interests under section 78, 78A, 78B, 78C, or 78D; and*
- b. *describe the nature of the interest.*

If the Councillor advised the Chief Executive Officer in writing of their conflict of interest under section 79(2)(a)(ii) of the Act before the meeting, the Councillor must disclose the class of interest only to the meeting immediately before the matter is considered.

While the matter in respect of which a Councillor has disclosed a conflict of interest is being considered or voted on, the Councillor must leave the room and remain outside the room and any gallery or other area in view or hearing of the room.

6.7 DISPUTE RESOLUTION

This conflict/dispute resolution process is intended to be used where Councillors have been unable to resolve a conflict or dispute between themselves or others or where the situation is unduly affecting the operation of Council. It is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion, debate and voting in meetings of Council and Special Committees.

Councillors are mindful that having and expressing differing and sometimes opposing views is a normal function of the process of democratic local government. Sharing and expressing these different views leads to informed and well considered debate. All Councillors have the right to influence the decisions made by Council through this debate.

While all Councillors will endeavour to foster and encourage positive and productive interactions at all times, conflict and/or disputes may emerge when the differences between Councillors become personal or the behaviour of Councillors towards each other is of a nature that threatens the effective operation of Council's decision-making process.

If the conflict/dispute is unable to be resolved, the following Internal Resolution procedure is available to a Complainant provided the allegation is not frivolous, vexatious, misconceived or lacking in substance as determined by the Chief Executive Officer:

Internal mediation - If an informal resolution of a dispute between Councillors is unsuccessful or not implemented, a formal written request for internal mediation must be made to the Mayor who will facilitate "formal" discussions between the parties in dispute as soon as practicably possible. The Mayor will advise the Chief Executive Officer of the situation. The request must be made in writing, indicating the reason for the dispute, the names of those involved, provisions of this Code that may have been breached, any evidence to support the allegation and, if the request is being made by a group of Councillors, the name of the Councillor representative.

The Mayor will convene a meeting at the earliest available opportunity and will provide guidance during that meeting as to what is expected of a Councillor under the Act in relation to roles, responsibilities and conduct. The Mayor will document any outcomes and will provide copies to all parties.

In the event that one party does not comply with the agreed outcomes, the other party has the option for further action as described below.

In the event that a conflict or dispute involves the Mayor, the Deputy Mayor shall perform the role of the Mayor in facilitating discussion between the parties in dispute and liaise with the Chief Executive Officer.

External mediation - In the event that reconciliation of the dispute is not possible after internal mediation, or the internal mediation is not conducted, a Councillor or group of Councillors may apply to Council's Principal Conduct Officer for a dispute to be referred for external mediation.

This request must be made in writing, indicating the reason for the dispute, the names of those involved, provisions of this Code that may have been breached, any evidence to support the allegation and, if the request is being made by a group of Councillors, the name of the Councillor representative. The applicant must also notify the other party of the request and provide them with a copy of the application at the same time the application is made to the Principal Conduct Officer.

The Principal Conduct Officer will ascertain whether or not the other party will attend external mediation and, if they decline, they must provide reasons for doing so to the Principal Conduct Officer. These reasons may be taken into account if the matter is the subject of an application for a Councillor Conduct Panel at a later stage. Declining to attend external mediation does not constitute a breach of this Code. If the other party agrees to participate in external mediation, the Principal Conduct Officer will advise the applicant, the Mayor and the Chief Executive Officer accordingly. The Chief Executive Officer will engage the services of an external and independent mediator to conduct the mediation at the earliest available opportunity. Mediators and conciliators can be selected from a listed panel of practitioners maintained by Council.

The mediator will document any agreement or outcomes reached at the meeting and copies will be provided to both parties. In the event that one party has not agreed to mediation, one party does not comply with the agreed outcomes or mediation does not reach a satisfactory outcome, either party has the option for further action as described below.

If the dispute remains unresolved, the mediator or conciliator will be required to provide a written report for Councillors and the parties involved in the dispute as to why the process did not result in a resolution.

Independent Arbiter - If a conflict or dispute arises from an alleged contravention or breach of this Code and has not been resolved through any of the previous processes, then a Councillor or group of Councillors (applicant) may apply to Council's Principal Conduct Officer for internal resolution by an independent arbiter alleging that a Councillor (or Councillors) (respondent) has contravened this Code.

This application must be made in writing, specify the name of the Councillor alleged to have contravened this Code, specify the provisions of this Code that may have been contravened, any evidence to support the allegation and, if the request is being made by a group of Councillors, the name of the Councillor representative.

An application for an internal resolution procedure cannot be made during a Council Election Period and any procedure in progress will be suspended for the duration of an Election Period.

On receiving an application, the Principal Conduct Officer will:

- a. *advise the Mayor and Chief Executive Officer of the application without undue delay;*
- b. *provide a copy of the application to the Councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;*
- c. *contact the President of the Law Institute of Victoria to appoint an arbiter;*
- d. *obtain from the proposed arbiter written advice that they have no conflict of interest in relation to the Councillors involved;*
- e. *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;*
- f. *consider the grounds of any objection and appoint the proposed arbiter or request the President of the Law Institute of Victoria to appoint another arbiter;*
- g. *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;*
- h. *after consultation with the arbiter, advise the applicant and the respondent of the time and place for the hearing*
- i. *attend the hearing(s) and assist the arbiter in the administration of the process.*

The Principal Conduct Officer will request the President of the Law Institute of Victoria to appoint an arbiter who is suitably independent and able to carry out the role of arbiter fairly.

The role of the arbiter is to:

- a. *consider applications alleging a contravention of this Code by a Councillor;*
- b. *make findings in relation to any application alleging a contravention of this Code which the arbiter must give to Council;*
- c. *give a written statement of reasons supporting the findings to Council; and*

- d. recommend an appropriate sanction or sanctions where the arbiter has found that a Councillor has contravened this Code.*

In considering an application alleging a contravention of this Code, an arbiter will:

- a. in consultation with the Principal Conduct Officer, fix a time and place to hear the application;*
- b. authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;*
- c. hold as many meetings as he or she considers necessary to properly consider the application. The arbiter may hold a directions hearing;*
- d. have discretion to conduct the hearing(s) as he or she deems fit while ensuring that the hearing(s) are conducted with as little formality and technicality as due and proper consideration of the application allows;*
- e. ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter;*
- f. 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;*
- g. ensure that the rules of natural justice are observed and applied in the hearing of the application; and*
- h. ensure that the hearing(s) are closed to the public.*

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

An arbiter:

- a. may find that a Councillor who is a respondent to an internal resolution procedure application has not contravened this Code; or*
- b. may find that a Councillor who is a respondent to an internal resolution procedure has contravened this Code; and*
- c. will suspend consideration of an internal resolution procedure during the Election Period for a general election.*

The arbiter is to give a copy of his or her findings and statement of reasons to Council, the applicant and the respondent. At the same time that the arbiter provides the findings and statement of reasons, he or she shall, where a Councillor has been found to have contravened this Code, recommend an appropriate sanction or sanctions for the contravention for consideration by Council.

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 an arbiter has found that a contravention of this Code has occurred, 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:

- a. *direct the Councillor to make an apology in a form or manner specified by Council;*
- b. *direct the Councillor to not attend up to, but not exceeding, two meetings of Council (in respect of the next scheduled meetings of Council);*
- c. *direct that, for a period of up to, but not exceeding, two months on a date specified by Council, the Councillor:*
 - (i) *be removed from any position where the Councillor represents Council; and*
 - (ii) *to not chair or attend any Advisory Committee or Special Committee meeting or an Assembly of Councillors or any other meeting specified in the direction.*

A Councillor who does not participate in the internal resolution procedure may be guilty of misconduct.

6.8 COUNCILLOR MISCONDUCT

Councillor misconduct is defined in section 3 of the Act (see misconduct, serious misconduct and gross misconduct). Allegations of misconduct are heard on application by a Councillor Conduct Panel as outlined in section 81B of the Act and Councillor Conduct Panels are established under, and regulated by, Division 1D of the Act.

Applications for a Councillor Conduct Panel to make a finding of misconduct against a Councillor may be made by Council (following resolution of Council), a Councillor or a group of Councillors.

Applications for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor may be made by Council (following resolution of Council), a Councillor, a group of Councillors or the Chief Municipal Inspector.

Applications for a Councillor Conduct Panel must be made directly to the state-appointed Principal Councillor Conduct Registrar.

Depending on the allegation and outcome, a Councillor Conduct Panel may:

- a. *discipline a Councillor by reprimand, direct an apology or require the Councillor to take up to two months leave of absence;*
- b. *direct that the Councillor is ineligible to take up the position of Mayor for a period specified by the Panel;*
- c. *require remedial action, including mediation, training or counselling;*
- d. *suspend the Councillor from office for a period not exceeding six months; or*
- e. *refer a matter to VCAT if the Panel considers gross misconduct has been conducted by a Councillor.*

6.9 CARETAKER PERIOD

The Act prescribes an 'election period' in the lead up to Council elections being the period that starts on the last day on which nominations for that election can be received and ends at 6pm on election day.

Councillors must comply with the provisions of sections 55D and 93A of the Act (Appendix B) and Council's Election Period Policy.

Councillor Code of Conduct 2017

Declaration by Councillor

I, **Cr Samantha McIntosh** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed:

Date:

Samantha McIntosh
25-01-2017 *the 25-01-2017*

Witnessed by the Chief Executive Officer, **Justine Linley**:

Date:

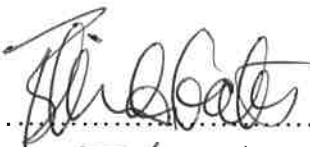
Justine Linley
25-01-2017

Councillor Code of Conduct 2017


Declaration by Councillor

I, **Cr Belinda Coates** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed: 

Date: 25/01/17

Witnessed by the Chief Executive Officer, **Justine Linley**: 

Date: 25-01-2017

Councillor Code of Conduct 2017

Declaration by Councillor

I, **Cr Mark Harris** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed: 

Date: 25 Jan 17

Witnessed by the Chief Executive Officer, **Justine Linley**: 

Date: 25-01-2017

Councillor Code of Conduct 2017

Declaration by Councillor

I, **Cr Des Hudson** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed: 

Date: 25-01-2017

Witnessed by the Chief Executive Officer, **Justine Linley**: 

Date: 25-01-2017

Councillor Code of Conduct 2017

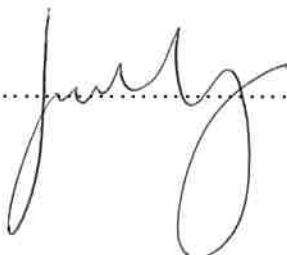
Declaration by Councillor

I, **Cr Amy Johnson** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed: 

Date: 25/01/2017

Witnessed by the Chief Executive Officer, **Justine Linley**: 

Date: 25-01-2017

Councillor Code of Conduct 2017

Declaration by Councillor

I, **Cr Daniel Moloney** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed:

Date:

Witnessed by the Chief Executive Officer, **Justine Linley**:

Date:

25-01-2017

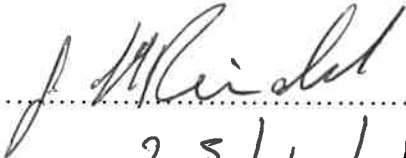



Councillor Code of Conduct 2017

Declaration by Councillor

I, **Cr Jim Rinaldi** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed: 
Date: 25/1/17

Witnessed by the Chief Executive Officer, **Justine Linley**: 
Date: 25-01-2017

Councillor Code of Conduct 2017

Declaration by Councillor

I, **Cr Ben Taylor** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed: 

Date: 25-1-2017

Witnessed by the Chief Executive Officer, **Justine Linley**: 

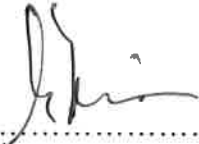
Date: 25-01-2017

Councillor Code of Conduct 2017

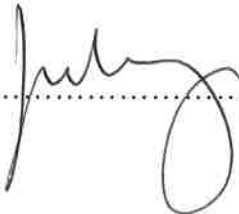
Declaration by Councillor

I, **Cr Grant Tillett** declare that I have been given a copy of the Councillor Code of Conduct of the City of Ballarat.

I have read the Code and agree to abide by it.

Signed: 

Date: 25-1-2017

Witnessed by the Chief Executive Officer, **Justine Linley**: 

Date: 25-01-2017

6.11 APPENDIX A – SECTION 76B, 76BA & 76D(1) – RULES OF CONDUCT

76B Primary principle of Councillor conduct

It is a primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must:

- a. *act with integrity; and*
- b. *impartially exercise his or her responsibilities in the interests of the local community; and*
- c. *not improperly seek to confer an advantage or disadvantage on any person.*

76BA General Councillor conduct principles

In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must:

- a. *avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;*
- b. *act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;*
- c. *treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;*
- d. *exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;*
- e. *endeavour to ensure that public resources are used prudently and solely in the public interest;*
- f. *act lawfully and in accordance with the trust placed in him or her as an elected representative;*
- g. *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.*

76D Misuse of position

(1) A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position—

- a. *to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or*
- b. *to cause, or attempt to cause, detriment to the Council or another person.*

Penalty: 100 penalty units.

6.12 APPENDIX B – SECTION 55D – PROHIBITION ON COUNCIL

55D Prohibition on Council

(1) A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.

(1A) For the purposes of subsection (1), the publication of a document of a kind specified in that subsection does not include—

- a. *publication of any document published before the commencement of the election period; and*
- b. *publication of any document required to be published in accordance with, or under, any Act or regulation.*

(2) The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.

(3) Despite section 98(2), the Chief Executive Officer must not delegate the power to certify any advertisement, handbill, pamphlet or notice under this section to a member of Council staff.

(4) A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer under this section.

6.13 APPENDIX B – SECTION 93A – CONDUCT OF COUNCIL

93A Conduct of Council during election period

- (1) Subject to this section, a Council, a special Committee or a person acting under a delegation given by the Council must not make a major policy decision during the election period for a general election.
- (2) If a Council considers that there are extraordinary circumstances which require the making of a major policy decision during the election period, the Council may apply in writing to the Minister for an exemption from the application of this section to the major policy decision specified in the application.
- (3) If the Minister is satisfied that there are extraordinary circumstances, the Minister may grant an exemption from the application of this section to the major policy decision specified in the application subject to any conditions or limitations that the Minister considers appropriate.
- (4) A major policy decision made in contravention of this section is invalid.
- (5) Any person who suffers any loss or damage as a result of acting in good faith on a major policy decision made in contravention of this section is entitled to compensation from the Council for that loss or damage.
- (6) In this section, a major policy decision means any decision:
 - a. *relating to the employment or remuneration of a Chief Executive Officer under section 94, other than a decision to appoint an acting Chief Executive Officer;*
 - b. *to terminate the appointment of a Chief Executive Officer under section 94;*
 - c. *to enter into a contract the total value of which exceeds whichever is the greater of—*
 - d. *(i) \$100 000 or such higher amount as may be fixed by Order in Council under section 186(1); or*
 - e. *(ii) 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year;*
 - f. *to exercise any power under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100 000 or 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year.*

7 COMPLIANCE RESPONSIBILITIES

Chief Executive Officer

The Chief Executive Officer ensures professional, relevant and timely information is provided to the Council and support to the role of Mayor and Councillors through the provision of compliance and administrative support services.

Councillors

To know, understand and make a formal declaration to abide by the City of Ballarat Councillor Code of Conduct Policy.

Principal Conduct Officer

Assist Council with the implementation and conduct of the Council's internal dispute resolution procedure.

8 CHARTER OF HUMAN RIGHTS COMPLIANCE

It is considered that this policy does not impact on any human rights identified in the Charter of Human Rights Act 2006.

9 REFERENCES AND RELATED POLICIES

Acts	Local Government Act 1989
Regulations	Local Government (General) Regulations 2015
Codes of Practice	NA
Guidance notes	Improved governance guide for Councils - Reforms arising from the Local Government Amendment (Improved Governance) Act 2015
Australian Standards	NA
Related Policies	Councillor and Staff Interactions Policy Election Period Policy Councillor Expense Entitlement Policy