

Councillor Code of Conduct

Moonee Valley City Council

In performing the functions and exercising the powers conferred by or under the Local Government Act 1989 (the Act) or any other Act for the peace, order and good government of the municipal district of Moonee Valley City Council, Councillors will adhere to the following Councillor conduct principles in compliance with sections 76B and 76BA of the Act –

1. 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 Moonee Valley community; and
- c) not improperly seek to confer an advantage or disadvantage on any person.

2. General Councillor conduct principles

In addition to acting in accordance with the primary principle of Councillor conduct specified above, 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; and
- 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.

3. Other General Principles

3.1 Functions of Mayor

The functions of the Mayor of a Council include:

- a) providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under the Act; and

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- b) acting as the principal spokesperson for the Council (as required by Council's Media and Issues Management Policy; and
- c) supporting good working relations between Councillors; and
- d) carrying out the civic and ceremonial duties of the office of Mayor.

3.2 Functions of Portfolio Councillor

Councillors acknowledge and respect that the Portfolio Councillor's function involves:

- a) receiving and providing preliminary feedback in relation to issues impacting on the portfolio;
- b) increasing their level of knowledge, understanding and involvement in the area; and
- c) In accordance with Council's Media and Issues Management Policy, functioning as a Council spokesperson in matters that arise in relation to their portfolio.

3.3 Child Safety Principles

Councillors will uphold appropriate behaviours demonstrating a zero tolerance to child abuse. Under Victorian law children and young people have the right to both feel and be safe all of the time. Therefore in reflection of these laws it is important that Councillors support the empowerment and participation of children by upholding their right to be heard, and responding responsibly and respectfully to children's views and concerns, in the practice of engagement, developing policies and implementing decisions.

Legislated child safe standards aim to protect children from abuse in organisations, including physical violence, sexual offences, serious emotional or psychological abuse and serious neglect.

3.4 Designated Confidential Material

Notwithstanding Section 77 (Confidential Information) of the Local Government Act 1989, Councillors acknowledge and respect that all material prepared under the direction of the Chief Executive Officer and issued to Councillors for consideration at relevant internal briefings involving Councillors, shall be deemed and remain as confidential material, unless resolved otherwise by Council or the Chief Executive Officer has informed all Councillors in writing or the material is no longer confidential by virtue of being in the public domain (other than as a consequence of a disclosure by a Councillor in contravention of the Act or this section).

3.5 Candidature of Councillors at a State or Federal Election

Councillors will acknowledge and adhere to the following guidelines, when running at a State or Federal Election:

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- a) A Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate for a state or federal election (a Prospective Candidate), must provide written advice to the CEO, as soon as practicable, who must then advise all councillors.
- b) A Councillor who is a Prospective Candidate, must declare his/her intended candidacy at an Ordinary Council Meeting, as soon as practicable after notifying the CEO pursuant to Guideline 3.4(a).
- c) A Councillor who is to nominate as a candidate for a state or federal election (a Nominated Candidate), must apply for leave of absence from the Council. This leave of absence must commence on the date that nominations open with the relevant electoral commission for the election (or no later than the date of the nomination, if an intention to nominate has not been previously expressed) and conclude no earlier than the close of voting for the election. During this period, a Councillor who is on a leave of absence must not attend meetings of the Council or otherwise act as a Councillor.
- d) All contact with Council officers shall be through the Chief Executive Officer or his/her nominee/s, the names of which must be advised to relevant Councillors.
- e) A Councillor who is a Prospective Candidate or a Nominated Candidate speaking on Council issues as a candidate in an election must clearly identify this fact. Where a Councillor misrepresents the Council position in election commentary, the Mayor or Chief Executive Officer may make a public comment clarifying the position of Council.
- f) A Councillor who is a Prospective Candidate or a Nominated Candidate must not use Council resources, including: time, Council funds, equipment including IT equipment, vehicle, phones, stationery, utilising officer time and facilities in relation to his/her candidacy.
- g) A Councillor who is a Prospective Candidate or a Nominated Candidate, must not use Council activities, including committee meetings and Council-related external activities in relation to his/her candidacy.
- h) A Councillor who is a Nominated Candidate may resume their duties as a Councillor immediately, should they formally withdraw from the Election. The Councillor must advise the Chief Executive Officer in writing that they have formally withdrawn from the Election and are to resume their role as a Councillor, by the close of business on the day of their withdrawal from the Election.

3.6 Voting

Where seeking to achieve its primary objective, a Council must have regard to ensure transparency and accountability in Council decision making. It is Councillor's preferred position to always vote, however it is also acknowledged that there may be exceptional circumstances where a Councillor may exercise their legal right to abstain from voting.

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3.7 Relationships with Staff

Councillors recognise that it is the role of the Chief Executive Officer to direct staff on all Council matters. Where it is required, any request for information or action will be directed to the relevant Executive Team member (or their delegated representative) or through the Mayor and Councillors support staff.

3.8 Council Policies

Councillors agree to abide by all Council adopted Policies, Protocols, and/or Guidelines. Councillors acknowledge that a breach of any Council adopted Policy, Protocol or Guideline will be deemed to be a breach of this Code of Conduct.

3.9 No Reprisals

A Councillor shall not take detrimental action in reprisal against anyone who reports an alleged breach of the Councillor Code of Conduct or an alleged offence under any legislation, committed by a Councillor. Detrimental action includes:

- action causing injury, loss or damage;
- intimidation or harassment; and
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business.

In addition, a Councillor can have taken detrimental action without having taken the action itself, but just by threatening to take such action. Further, the detrimental action need not necessarily have been taken (or threatened to be taken) against a person making a report, but against any person connected with the report. Any allegations of a Councillor taking detrimental action in reprisal for a formal report made against them, will be referred to the relevant authority, if necessary.

4. Internal Resolutions Procedure

4.1 Before commencing any formal dispute resolution process, the Councillor/s who are parties to any disagreement or alleged breach of this Code of Conduct will, endeavour to resolve the matter in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the people of Moonee Valley.

4.2 In the event that the parties cannot resolve the matter, the first stage of the internal resolution process will be:

- a) If the complainant is another Councillor, the Mayor (or Deputy Mayor should the Mayor be a party to the matter) is to initiate a meeting with the Councillors concerned and facilitate discussions between the

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parties. This is to be undertaken with the Mayor remaining impartial and not taking a position on the matter of contention. This meeting must be undertaken within 7 days of the dispute or the alleged breach of conduct being reported.

- b) If the complainant is a Council officer, the Mayor (or Deputy Mayor should the Mayor be a party to the matter) is to initiate a meeting and facilitate discussions between the parties. This is to be undertaken with the Mayor remaining impartial and not taking a position on the matter of contention. The officer's relevant Director or the Chief Executive Officer will also be in attendance on behalf of the officer involved. This meeting must be undertaken within 7 days of the dispute or the alleged breach of conduct being reported.

If the parties concerned do not wish step 4.2(a) or 4.2(b) (which ever applies) to be undertaken, then the parties will move to step 4.3 of the process.

- 4.3 Where a dispute occurs and it is unable to be resolved; or an alleged breach of this Code of Conduct is reported, the Councillor/s concerned agree to work towards resolving the dispute by the appointment of an arbiter who is suitably independent and able to carry out the role of arbiter fairly. This Arbiter, as nominated by the Chief Executive Officer will be acceptable to both parties, or failing agreement, the Chief Executive Officer will seek assistance from the MAV or other peak bodies to select an appropriate arbiter.
- 4.4 When an arbiter is appointed, all Councillors agree to cooperate with the internal resolution process and use their best endeavours to assist the arbiter when requested.
- 4.5 The role of the arbiter is to:
- a) Act fairly and without bias;
 - b) Ensure that the rules of natural justice are observed and applied in the hearing of the matter;
 - c) Ensure that all hearings are closed to the public;
 - d) Confirm with those alleging the breach of the Code of Conduct, the main points of their allegations;
 - e) In accordance with procedural fairness, provide the Councillor/s concerned with reasonable opportunity to be heard;
 - f) Hear all other parties to the matter and consider their submissions;
 - g) Make reasonable inquiries or investigations before making a finding. (A finding that will negatively affect a Councillor should not be based on suspicion, gossip or rumour. There must be factual information to support all findings);
 - h) Only take into account relevant factors;
 - i) Ensure that a full written record of the investigation has been prepared;
 - j) Make a clear finding as to whether or not there has been a contravention of the Councillor Code of Conduct;
 - k) Provide a written report of findings, including the reasons supporting those findings, to Council and the parties concerned.

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- 4.6 Through application of these processes, if any contravention of this Code of Conduct remains unresolved or is deemed to be Misconduct, it will be referred by Council's Principal Conduct Officer to the Councillor Conduct Panel Registrar in accordance with the Local Government Act 1989.
- 4.7 If the dispute or breach of the Code of Conduct relates to an apparent offence under the Local Government Act 1989, for matters such as misuse of position, improper direction or influence, confidential information, conflict of interest, electoral conduct etc. it should be referred to the Local Government Investigations & Compliance Inspectorate, IBAC or other relevant integrity agency, and not be the subject of an application to a Councillor Conduct Panel.
- 4.8 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/or Committee meetings.

Sanctions for the Contravention of this Code of Conduct

If, after an internal resolution procedure has been conducted, it is found that a Councillor has contravened this Code of Conduct, Council may give one of the following written directions to the Councillor:

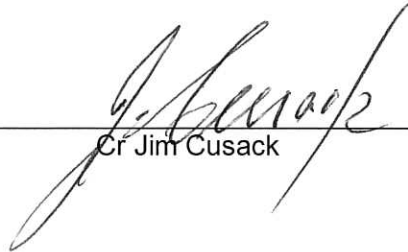
- a) Direct the Councillor to make an apology in a form or manner specified by Council.
- b) Direct the Councillor to not to attend up to, but not exceeding, the next 2 scheduled meetings of the Council.
- c) Direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by Council, the Councillor:
 - i) be removed from any position where he or she represents the Council; and
 - ii) to not chair or attend any advisory or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.

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Declaration

I declare that I have read, understand and will abide by the provisions of this Councillor Code of Conduct:


Cr Samantha Byrne


Cr Jim Cusack

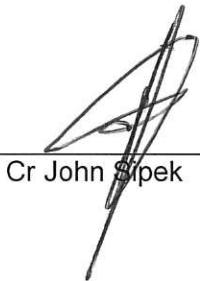

Cr Rebecca Gauci Maurici



Cr Richard Lawrence


Cr Nicole Marshall

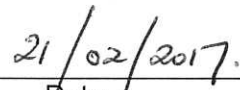

Cr Cam Nation


Cr Marelle Sharpe


Cr John Sipek


Cr Andrea Surace


Witnessed by the Chief Executive Officer


Date

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