

Management report to Council

Agenda item 3.2

Councillor Code of Conduct enhancements and related policies

Council

Presenter: Ben Rimmer, Chief Executive Officer

4 September 2018

Purpose and background

1. The purpose of this report is to seek Council endorsement of several policies currently referred to in Appendix 1 of the Councillor Code of Conduct (Code).
2. At the 15 May Special Council meeting, the Council adopted a new Code.
3. The new Code was the first step in a broader review of other relevant policies and procedures that apply to Councillors. The policy review related to alcohol and drugs, sexual harassment, bullying and Occupational Health and Safety (OHS).
4. An Independent Respectful Conduct Advisor (IRCA) was also introduced to support Councillors to clarify their rights and obligations, and make decisions about appropriate avenues to report any allegations of sexual harassment and other disrespectful conduct.

Key issues

5. As part of Councillors' commitment to creating the right environment to raise concerns and deal with issues of workplace standards and behaviours in a constructive manner, the following policies have been developed:
 - 5.1. The Councillor OHS and Safety Policy (Attachment 2) – this outlines matters relating to OHS and provides more detailed guidance on procedures for incident and hazard reporting.
 - 5.2. The Councillor Respectful Conduct Policy (Attachment 3) – this aims to promote and support a workplace that is free from unlawful discrimination, sexual and other forms of harassment, victimisation, racial and religious vilification and workplace bullying.
 - 5.3. The Councillor Fitness to Carry Out Duty Policy (Attachment 4) – this addresses individual fitness and workplace health and safety issues relating but not limited to the consumption of alcohol and other drugs and includes appropriate procedures for managing different scenarios.
6. For the purposes of appointing an IRCA, Terms of Reference have been developed (Attachment 5). Arrangements are in place for the preferred provider to be available from September 2018.
7. The Code has been reviewed to ensure alignment with the aforementioned Councillor policies and a new version is presented for endorsement incorporating a number of changes (Attachment 6).
8. Councillors are not required to re-sign the Code for it to take effect together with the new policies.
9. Management will continue to advocate to the Victorian Government for changes to the *Local Government 1989*, including additional provisions to expressly resolve currently ambiguous and unsatisfactory approaches to sexual harassment and OHS issues. The Code will need to be reviewed and updated in response to any changes to relevant legislation that result from this advocacy.

Recommendation from management

10. That Council:
 - 10.1. Adopts the Councillor Occupational Health and Safety Policy (Attachment 2).
 - 10.2. Adopts the Councillor Respectful Conduct Policy (Attachment 3).
 - 10.3. Adopts the Councillor Fitness to Carry Out Duty Policy (Attachment 4).
 - 10.4. Adopts the Terms of Reference for the Independent Respectful Conduct Advisor (Attachment 5).
 - 10.5. Endorses the reviewed Councillor Code of Conduct (Attachment 6).
 - 10.6. Authorises the Chief Executive Officer to make any further minor editorial changes to the Councillor policies as appropriate.

Attachments:

1. Supporting Attachment (Page 3 of 63)
2. Councillor Occupational Health and Safety Policy (Page 4 of 63)
3. Councillor Respectful Conduct Policy (Page 11 of 63)
4. Councillor Fitness to Carry Out Duty Policy (Page 20 of 63)
5. Terms of Reference for the Independent Respectful Conduct Advisor (Page 28 of 63)
6. Councillor Code of Conduct (Page 31 of 63)

Supporting Attachment

Legal

1. Councillors have specific obligations as individuals and as a group under the *Occupational Health and Safety Act 2004*. These have been addressed in the preparation of this report and supporting policies.

Finance

2. Costs associated with the introduction of the IRCA can be met within the 2018-19 budget.

Conflict of interest

3. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

4. No external stakeholder consultation was required given internal nature of this review.

Environmental sustainability

5. Environmental sustainability issues or opportunities are considered not relevant to this proposal.



Councillor Occupational Health and Safety Policy 2018

Adopted by Melbourne City Council on [date] 2018

1. PURPOSE

The City of Melbourne is committed to providing and maintaining a safe and healthy environment for all persons associated with its operations, including Councillors, employees, contractors, residents and visitors. This applies to our work areas and our community spaces.

Our commitment is based on the principle that occupational health and safety is the most important of all our business objectives, the recognition that workplace injuries can be prevented, that everyone in the organisation should have clearly defined occupational health and safety responsibilities, and that meeting this commitment through the management of our stakeholder relationships is important.

The City of Melbourne Councillor Code of Conduct recognises the provisions of the Occupational Health and Safety Act 2004 apply to Council and Councillors. Councillors have a role in

- protecting their own and others' health and safety in the workplace
- taking reasonable care through the Chief Executive to ensure a safe workplace.

The purpose of this policy is to

- outline Councillors' responsibilities under the *Occupational Health and Safety Act 2004* and *Occupational Health and Safety Regulations 2017*.
- set out Councillors' and the organisation's obligations in respect of occupational health and safety
- provide guidance to Councillors on how to respond in various scenarios with health and safety implications that may arise in a work setting.

The Chief Executive Officer from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

2. SCOPE

This policy applies to all Councillors at all times when undertaking their roles as elected officers of Melbourne City Council. Councillors within this context include the Lord Mayor and Deputy Lord Mayor. This policy applies to Councillors as individuals in the workplace and as office holders with particular legal responsibilities for occupational health and safety. Health and safety matters include those relating to hazards, risks and incidents, and their physical and as well as psychological consequences on individuals or the community.

The CEO has specific responsibilities to create a safe workplace under the *Occupational Health and Safety Act 2004*, and is so empowered to take certain actions that may impact on the ability of Councillors to perform particular functions in a particular way, consistent with those responsibilities.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct.

3. POLICY

Councillors have agreed, through their Code of Conduct, that Council is committed to providing and maintaining a safe workplace for all and recognises the provisions of the Occupational Health and Safety Act 2004 apply to Council and Councillors.

4. DEFINITIONS

CEO means the Chief Executive Officer of City of Melbourne.

CoM means the City Of Melbourne.

Council means the Melbourne City Council.

Support Officer means a member of the Councillor Support Team or a member of the Lord Mayor's Office.

Executive Officer Councillor Support is the people leader for the Councillor Support Team.

First aid in the workplace is the provision of emergency treatment and life support for people suffering injury or illness at work".

Hazard means a condition or situation which has the potential to cause injury (physical or psychological).

Immediately notify means as soon as a person becomes involved or aware of the incident, near miss or hazard.

Incident means an event or sequence of events resulting in loss of control over a hazard. Such an incident may result in injury to an employee, Councillors, contractor, volunteer or visitor.

Medical treatment means is treatment required without delay after an incident is termed 'immediate medical treatment'. *The Medical Treatment Act 1988* defines medical treatment as the carrying out of:

- (a) an operation;
- (b) the administration of a drug or other like substance; or
- (c) any other medical procedure – but does not include palliative care.

Medical treatment does not include procedures carried out for diagnostic purposes only.

Near miss means an incident/event which had the potential to cause personal injury or damage to equipment/machinery, property or facilities.

OHS means Occupational Health and Safety

OHSMS is a combination of the planning and review, the management organisational arrangements, the consultative arrangements, and the specific program elements that work together in an integrated way to improve health and safety.

Principle Conduct Officer is a person appointed by the Chief Executive Officer to assist Council in implementing its internal resolution procedure.

Workplace means any place where a person attends for the purpose of carrying out any functions in relation to his or her employment, occupation, business, trade or profession and need not be a person's principal place of business or employment.

5. RESPONSIBILITIES

Each Councillor has agreed that they understand that Occupational Health and Safety is a shared responsibility.

Responsibilities relating to this policy are as follows:

Councillors will:

- Make themselves familiar with the provisions of this policy and procedure, raise any concerns or questions about the policy's coverage or application and adhere to the policy.
- Take reasonable care to protect their own health and safety, as well as the health and safety of others in the workplace.
- Attend and participate in all CoM required training, to maintain understanding of the duties and obligations imposed by the *Occupational Health and Safety Act 2004* and their application to the broad range of activities undertaken by CoM.
- Comply with the Councillor Occupational Health and Safety Policy and associated reporting procedures.
- Participate where required in the resolution of safety issues.
- Consider any health and safety implications for Council decisions.

The City of Melbourne will:

- As far as reasonably practicable, provide a safe workplace that is without risks to the health of Councillors performing their civic duties, by ensuring appropriate systems and policies are in place to manage those risks.
- Proactively monitor the workplace to identify hazards, assess risks and implement control measures where it is reasonably practical to do so.
- Take all reasonable steps to ensure organisational compliance to the organisation's OHS Policy and the continuous improvement of the CoM OHS Management System.
- Provide training opportunities to assist Councillors to achieve and maintain understanding of the duties and obligations imposed by the *Occupational Health and Safety Act 2004* and their application to the broad range of activities undertaken by CoM.
- Adhere to all principles and lawful requirements of the *Workplace Injury Rehabilitation and Compensation Act 2013* following any work related injury.

6. INCIDENT AND HAZARD REPORTING PROCEDURES

All hazards, near misses and incidents that occur as a result of Councillors conducting the business of Council, acting as a representative of Council, including as part of attending Council related functions, during or outside normal Council hours must be reported.

In most cases where Councillors notice something unsafe, it will be appropriate for them to notify a Support Officer. The Support Officer will complete an online hazard/incident report in accordance with CoM's Incident/Hazard Reporting and Investigation Policy and Procedure.

The Executive Officer Councillor Support will then conduct an incident investigation and risk assessment and document any actions to be taken to control the risk. Alternatively, the Executive Officer Councillor Support may refer the matter to another City of Melbourne manager for investigation and action.

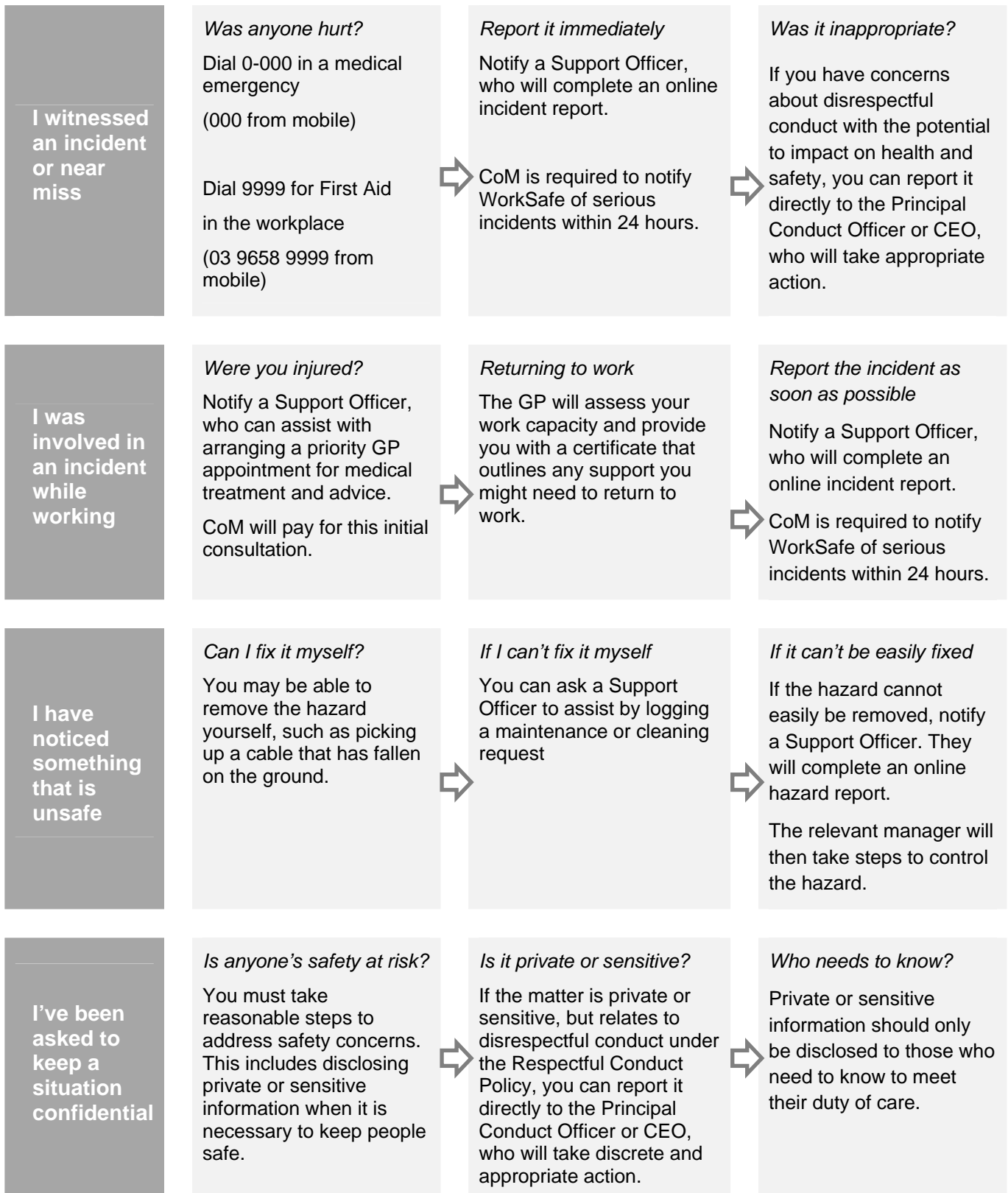
If the issue relates to potential psychological injury arising from disrespectful conduct under the Councillor's Respectful Conduct Policy, the issue must be reported, and it may be more appropriate to report the matter to the Principal Conduct Officer or CEO. If the CEO has serious concerns about a risk to the health and safety of a Councillor, Councillors, Council staff or the community, the CEO has overall accountability to take appropriate action to ensure the safety of all.

6.1 Incident close-off and report-back

Depending on the issue, the Support Officer, Executive Officer Councillor Support, Principal Conduct Officer or CEO will notify the Councillor of the outcome of hazard or incident once addressed.

7. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.



8. RELATED POLICIES AND RESOURCES

- City of Melbourne Councillor Code of Conduct
- City of Melbourne Councillor Fitness to Carry Out Duty Policy
- City of Melbourne Respectful Conduct Policy
- *Occupational Health and Safety Act 2004*



Councillor Respectful Conduct Policy 2018

Adopted by Melbourne City Council on [date] 2018

1. PURPOSE

Councillors through their Code of Conduct have committed to work together with one another in a respectful and constructive manner to achieve the goals and vision for the city. Councillors have further acknowledged they have been elected by the community to a position of significant responsibility with the expectation that they will act in accordance with accepted values of our society.

The purpose of the Councillor Respectful Conduct Policy 2018 is to establish a framework to identify and manage inappropriate conduct by Councillors that falls short of this standard.

This policy reflects the obligations on Council to promote and support a workplace that is free from unlawful discrimination, sexual harassment, victimisation, racial and religious vilification and workplace bullying and comply with applicable laws contained in relevant equal opportunity legislation.

The Chief Executive Officer (CEO) from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

2. SCOPE

This policy applies to Councillors with respect to their conduct towards fellow Councillors and Council employees. For the avoidance of doubt, this policy applies equally to all Councillors, including the Lord Mayor and Deputy Lord Mayor.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct, nor any legislation setting out alternative avenues that may be available to a Councillor or Councillors in respect of matters mentioned in this policy.

The processes outlined in this policy may run concurrently with any processes set out in the Councillor Code of Conduct, the *Local Government Act 1989* and any other legislation.

Council has separate policies regarding unlawful discrimination, sexual harassment, victimisation, racial and religious vilification and workplace bullying that apply to Council employees.

This policy applies when Councillors are conducting the business of Council or acting as a representative of Council, irrespective of location, during or outside normal Council hours.

This policy sits independently of, and neither changes nor detracts from, the Meetings Local Law and Meeting Procedures Code.

3. POLICY

The Council is committed to upholding the principle of equal opportunity by treating all people with dignity and respect.

Council will not tolerate disrespectful conduct by Councillors, namely conduct that would amount to unlawful discrimination, harassment (including sexual harassment), victimisation, racial and religious vilification or workplace bullying if the Councillor were an employee of Council.

These terms are explained below.

3.1 UNLAWFUL DISCRIMINATION

Unlawful discrimination means direct or indirect discrimination on the basis of a protected attribute.

Protected attributes are specifically listed in anti-discrimination legislation.

Protected attributes include the following:

- Age
- Breastfeeding
- Disability or impairment
- Employment activity
- Gender identity
- Industrial activity
- Intersex status
- Lawful sexual activity
- Marital or relationship status
- Status as a parent or carer
- Physical features
- Political belief or activity
- Pregnancy
- Race
- Religious belief or activity
- Sex
- Sexual orientation
- Association with someone who is identified by a protected attribute.

Direct discrimination occurs if a person treats another person with a protected attribute unfavourably because of that protected attribute.

Some examples of direct discrimination are:

- Not offering computer training to an older Councillor because of his age and a view that they will not be involved in Council for much longer.
- Excluding a Councillor from participation on a Committee because of a protected attribute, for example, their religious belief or age.

Indirect discrimination occurs if a person imposes a requirement, condition or practice that disadvantages a person with a protected attribute and that requirement, condition or practice is not reasonable.

Some examples of indirect discrimination are:

- Holding a Council team building event at a sporting venue that does not permit access or participation by a Councillor with a disability.
- Making it a requirement that Councillors be members of a political party in order to be a member of a committee.

Unlawful discrimination can occur even if you do not intend to discriminate.

3.2 HARASSMENT

Harassment occurs when someone engages in conduct that would make a reasonable person feel offended, humiliated or intimidated because of their age, race, religion, sex or some other attribute specified under anti-discrimination legislation.

Some examples of harassment are:

- Ageist or racist comments or jokes about another Councillor
- Isolating a Councillor because they have a disability.

A person's intention or motive for conduct that constitutes harassment is irrelevant to whether unlawful harassment has taken place.

3.3 SEXUAL HARASSMENT

Sexual Harassment means unwelcome conduct of a sexual nature where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated. The intention of the harasser is irrelevant.

Some examples of sexual harassment are:

- Repeatedly asking another Councillor to go on a date when that person has already declined.
- Sending an email to another Councillor with sexually explicit images attached.

3.4 RACIAL OR RELIGIOUS VILIFICATION

Racial or religious vilification means conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, a person or group of persons on the basis of their race or religious belief. Serious racial or religious vilification involves a threat to harm another person or their property, and is a criminal offence.

Some examples of racial or religious vilification are:

- Sending an email to your colleagues that ridicules Muslims or Christians.

- Making threats to harm a colleague because he is a Muslim (serious religious vilification).

A person's intention or motive for conduct that constitutes racial or religious vilification is irrelevant to whether such vilification has taken place.

3.5 VICTIMISATION

Victimisation means unfavourable treatment of a fellow Councillor who reports or complains about any of the conduct covered by this policy.

Some examples of victimisation are:

- Denying a Councillor access to information shared with other Councillors because she has made a complaint about unlawful discrimination.
- Excluding or isolating a Councillor because he has made a complaint of sexual harassment against one of your Councillor friends.

3.6 BULLYING

Bullying is repeated unreasonable behaviour directed towards another Councillor or member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor or member of Council staff.

'Unreasonable behaviour' is behaviour that a reasonable person, having regard to all the circumstances, believes or expects would victimise, humiliate, undermine or threaten another person.

A broad range of behaviours can be considered to be bullying. Some examples of behaviour that may constitute bullying are:

- verbal abuse, insults or name-calling
- continually making jokes about a person, or singling out one person for remarks more often than others in a group
- personal attacks, threats, intimidation and misuse of power
- deliberate exclusion or isolation
- deliberately withholding information from someone where that information is essential to their ability to perform their work effectively.

A single incident of unreasonable behaviour, while not bullying, may still create a risk to health and safety and will not be tolerated by Council.

4. RESPONSIBILITIES

4.1 Councillors will:

- treat all people with dignity and respect.
- report any unacceptable conduct, consistent with the Councillor Code of Conduct.
- ensure their behaviour is appropriate at all times and in accordance with the City of Melbourne's values.
- cooperate with any investigation into, or arbitration of, a complaint made under this policy.
- other than reporting to appropriate people as set out in the Councillor Code of Conduct, maintain confidentiality regarding any complaint raised under this policy, unless the Councillor has been given explicit permission by the individual bringing the complaint or they are legally obliged to provide information to appropriate authorities.
- not make or cause to make a vexatious, false or frivolous complaint.
- maintain a professional and safe work environment free from unacceptable conduct
- take reasonable and proportionate measures to prevent unacceptable conduct as far as possible.

4.2 The Principal Conduct Officer and Chief Executive Officer will:

- assist Council in the implementation of the following procedure
- ensure that support and assistance is available to all Councillors where it is required
- apply natural justice principles in addressing any allegation of disrespectful conduct.

5. PROCEDURE FOR DEALING WITH ALLEGED BREACHES OF THIS POLICY

Councillors are expected to use their best efforts to resolve disputes in a respectful and courteous manner. If a Councillor believes that this policy has been breached, the Councillor should adopt the steps set out in section 3 of the Councillor Code of Conduct.

5.1 OTHER RESOURCES AND SUPPORT

INDEPENDENT RESPECTFUL CONDUCT ADVISOR

At any time when a Councillor has a complaint or concerns relating to a breach under this policy they may also make contact with the Independent Respectful Conduct Advisor (IRCA).

The IRCA will support Councillors in clarifying their rights and obligations and making decisions about appropriate avenues to report complaints under this policy. Whilst the IRCA is retained by Council, the Councillor can meet with them on a confidential basis.

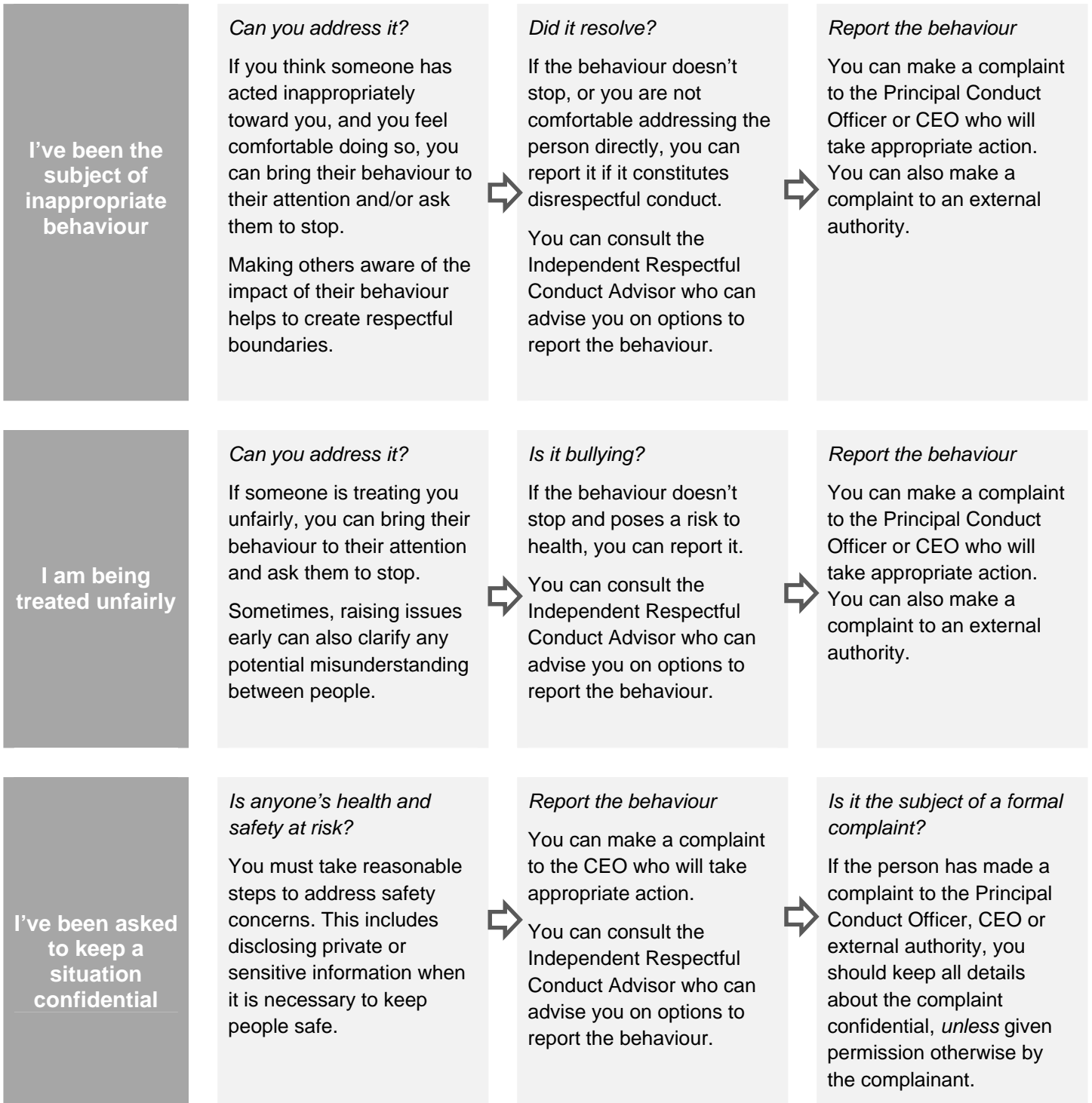
If the IRCA believes an issue has been brought to their attention that creates a risk to the health and safety of a Councillor or another person, they may raise the matter with the CEO on a confidential basis.

EMPLOYEE ASSISTANCE PROGRAM

Councillors will have access to the Employee Assistance Program as ordinarily extended to City of Melbourne employees should they require general counselling support in relation to any matters covered by this policy.

6. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.



7. RELATED POLICIES AND RESOURCES

City of Melbourne Councillor Code of Conduct

City of Melbourne Councillor Occupational Health and Safety Policy

Charter of Human Rights and Responsibilities Act 2006 (Vic).

Age Discrimination Act 2004 (Cth)

Disability Discrimination Act 1992 (Cth)

Equal Opportunity Act 1995 (Vic) and its successor the *Equal Opportunity Act 2010 (Vic)*

Fair Work Act 2009 (Cth)

Fair Work Regulations 2009 (Cth)

Human Rights and Equal Opportunity Commission Act 1986 (Cth)

Human Rights and Equal Opportunity Commission Regulations 1998 (Cth)

Privacy and Data Protection Act 2014 (Vic)

Local Government Act 1989 (Vic)

Occupational Health and Safety Act 2004 (Vic)

Public Administration Act 2004 (Vic)

Racial Discrimination Act 1975 (Cth)

Racial and Religious Tolerance Act 2001 (Vic)

Sex Discrimination Act 1984 (Cth)

Workplace Gender Equality Act 2012 (Cth)



Councillor Fitness to Carry Out Duty Policy 2018

Adopted by Melbourne City Council on [date] 2018

1. PURPOSE

The City of Melbourne is committed to enabling Councillors to fulfil their duties to the best of their abilities to ensure that the functions of the Council are achieved in accordance with legislative requirements and good governance.

Where a Councillor has known disabilities, the City of Melbourne will make all reasonable and necessary adjustments to support them in undertaking their role. This is not considered to be related to issues of fitness to carry out duty.

Councillors have also committed to take reasonable care to protect their own health and safety as well as the health and safety of others in the workplace.

The purpose of this policy is to:

- make Councillors aware of when and how to access support when they cannot fulfil their duties to the best of their abilities
- outline factors and circumstances which may impact a Councillor's fitness to perform all duties while in the role of Councillor
- set out the obligations of Councillors to make confidential disclosures regarding impacts on their abilities to undertake all duties
- set out the obligations of the Chief Executive Officer (CEO) on dealing with fitness for duty issues impacting a Councillor and/or other persons in the workplace.

2. SCOPE

This policy applies to all City of Melbourne Councillors, including the Lord Mayor and Deputy Lord Mayor. This policy applies to all issues which may impact on a Councillor's fitness to perform duties while undertaking the role of Councillor, including without limitation physical and psychological conditions and substance abuse.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct.

Where a Councillor is not fit to perform their duties, they may advise the CEO as set out in this policy and supporting arrangements will be made to either support the Councillor to continue in the role or enable them to return to their role as quickly as possible.

In cases where a Councillor chooses not to disclose their unfitness and to continue to undertake their duties, this may constitute a health and safety risk for both the Councillor and others. In those situations it may then be incumbent on the CEO to take steps in accordance with their legal obligations to manage the situation.

The CEO from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

3. FITNESS FOR DUTY AND DISCLOSURE OBLIGATIONS

3.1 Identifying a fitness for duty concern

A person is fit for duty when they are in a mental and physical state of health which allows them to competently perform the inherent or genuine and reasonable requirements of their role and in a manner which does not compromise or threaten the safety or health of themselves or others.

Common indicators of an issue concerning or impacting fitness may include:

- impaired physical function, including mobility
- unexplained or excessive absences or unreasonable habitual lateness
- problems with memory, speech or co-ordination
- disproportionate or excessive aggressive outbursts towards another person or in response to any discussion
- unusual drowsiness or fatigue
- concerning physical changes.

Councillors acknowledge that a physical or psychological impairment may impact on their fitness to carry out duty.

3.2 Consumption of alcohol and drugs

Councillors acknowledge that consumption of alcohol and other drugs (even if legal and prescribed), may impact on the satisfactory performance of their duties. Further, such activity may negatively impact on the working environment and affect other persons, including other Councillors, Council staff and the community.

Substance abuse which impacts on the ability of a Councillor to satisfactorily undertake duties as part of their role or which poses risks to others may result in the Councillor being considered to be unfit to carry out duty.

3.3 Other factors and circumstances impacting fitness

Councillors acknowledge that there are a range of other things that may impact on fitness for duty, including fatigue, general physical health, or specific health situations. This could mean a Councillor's physical or mental health is temporarily affected, or affected over a longer period of time, such that their ability to function in the role may be compromised.

3.4 Definitions

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| Alcohol | means ethyl alcohol or ethanol |
| Drug | means any substance that may result in psychological or behavioural changes that have the potential to reduce a person's fitness to perform duties and impact on performance and safety. |
| Duty | means the performance of the role and functions of a Councillor or Council as prescribed under the Local Government Act |
| Substance | includes alcohol, intoxicating products, prescription and non-prescription medication, legal/illegal/illicit drugs whether naturally occurring or synthetic |

4. MANAGING FITNESS FOR DUTY

4.1 Confidentiality and privacy

Subject to law, the personal and medical issues impacting a Councillor's fitness to carry out duty, and any disclosure or referral made to the CEO under section 4.2 or 4.3 of this policy, will be kept confidential.

The Privacy and Data Protection Act, the Health Records Act and the Local Government Act will apply to all documentation and information provided by a Councillor or developed in the course of any disclosure into a matter concerning the fitness to carry out duties of a Councillor. Such documentation or information may be provided to external advisors and agencies on a need to know basis or in accordance with law, and may be subject to obligations of confidentiality.

All Councillors should be mindful of any associated reputational damage to the individual Councillor where there are concerns around fitness to carry out duty. In line with the principle of respect outlined in the Councillor Code of Conduct, no public communications on such matters are permitted.

4.2 Disclosure by Councillor

Where a Councillor considers they may not be fit to undertake their duties, or their fitness has been restricted, or on professional medical advice their fitness has the potential to become restricted, they should notify the CEO.

In consultation with the Councillor, the CEO will put in place necessary and appropriate arrangements and safeguards to allow the Councillor to continue performing their duties.

Depending on the nature of the issue, and the risks to health and safety, arrangements need to be determined on a case by case basis.

4.3 Disclosure about perceived impacts on another Councillor's ability to perform duty

As part of Councillors' commitment to protect their own and each other's health and safety, a Councillor may disclose information to the CEO about concerns regarding perceived impacts on another Councillor's ability to perform their duties. Proactive disclosure supports the CEO to discharge their duty of care around the health and safety of all individuals in the workplace.

Following receipt of a disclosure, the CEO will decide whether the issue needs to be followed up with the Councillor concerned and managed in accordance with this policy.

4.4 Assistance, external advice and referral

In assisting the Councillor whose fitness for duty may be impaired, the CEO may consider any of the following options in consultation with the Councillor:

- provision of ergonomic and rehabilitation resources
- additional support provided by administrative staff as required
- a medical assessment (subject to Councillor consent) and/or return-to-full duties plan
- access to counselling.

In consultation with the Councillor concerned and without disclosing their circumstances, the CEO may discuss with the Lord Mayor (or Deputy Lord Mayor) an adjustment of the Councillor's upcoming duties, or distribution of their duties to other Councillors.

If the Councillor's circumstances give rise to an occupational health and safety risk, then the following section applies.

5. COMPLIANCE WITH ALL LEGISLATIVE AND CODE OF CONDUCT OBLIGATIONS

5.1 Occupational Health and Safety obligations

City of Melbourne is committed to providing and maintaining a work environment that is safe and without risks to health. The CEO is required to put in place and maintain policies and procedures to ensure a safe environment for Councillors and Council staff to carry out their duties, and for third parties both on Council premises and coming into contact with Council's operations and activities.

Where a situation arises where a Councillor is unfit to perform the duties associated with their role, the CEO is required to take all necessary steps in accordance with occupational health and safety legislation and Council's occupational health and safety policies.

In the event that the CEO becomes aware of a situation where, in their opinion, a Councillor's lack of fitness to perform duties poses serious risks to health and safety, Councillors agree that the CEO will take appropriate action to deal with such matters.

Such appropriate steps to reduce any health and safety risk may include, for example:

- restricting the use of Council resources by a Councillor (without curtailing the rights and entitlements granted to Councillors under *the Local Government Act 1989* and *City of Melbourne Act 2001*)
- recommending the Councillor take a temporary leave of absence
- referring the Councillor to appropriate authorities where the circumstances involve broader contravention of the Councillor Code of Conduct.

6. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.

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|--|---|---|---|
| <p>I injured my leg</p> | <p><i>Will this impact your ability to carry out duties?</i></p> <p>You must consider whether an injury sustained at work or outside of work has the potential to impact on your performance.</p> <p>If so, you must report it to the CEO.</p> | <p><i>Report it immediately</i></p> <p>The CEO will assist you to rearrange your workload, reprioritise your duties or request you to seek specialist advice about your fitness.</p> | <p><i>If you take leave</i></p> <p>In some circumstances, where a fitness issue requires you to take temporary leave of absence, the organisation will make appropriate arrangements on your return to work in accordance with its OHS Policy.</p> |
| <p>I am taking prescription medication which makes me feel faint</p> | <p><i>Will this impact your ability to carry out duties?</i></p> <p>Feeling faint has negative impacts on your capacity as well as your safety at work.</p> <p>If there are potential impacts from the medication on your ability to undertake duties, you should inform the CEO.</p> | <p><i>Disclose it to the CEO</i></p> <p>The CEO will discuss potential options with you to enable you to undertake your duties while minimising risks to your safety. This may include reducing or rearranging your workload, taking temporary leave, and ensuring there is adequate staff support for you.</p> | <p><i>If there is a health and safety risk</i></p> <p>If there is an immediate health and safety risk, the CEO is obliged to take appropriate intervention.</p> <p>Prolonged symptoms of feeling faint may prompt the CEO to require you take leave and/or urge to consult your medical practitioner to review your medication.</p> |
| <p>I have noticed another Councillor often shows up smelling of alcohol</p> | <p><i>Is their fitness a concern?</i></p> <p>Are there outward serious or persistent signs that the person is having difficulty performing their usual duties?</p> | <p><i>Is there a health and safety risk?</i></p> <p>If this poses a potential risk to the health and safety of the Councillor and/or others, it must be reported to the CEO immediately.</p> | <p><i>Disclose it to the CEO</i></p> <p>Depending on the circumstances, and whether they have serious concerns about health and safety, the CEO may follow up with the Councillor and/or intervene.</p> |
| <p>I have noticed another Councillor isn't their usual self</p> | <p><i>Is their fitness a concern?</i></p> <p>Are there outward serious or persistent signs that the person is having difficulty performing their usual duties?</p> | <p><i>Disclose it to the CEO</i></p> <p>The CEO will decide whether the matter needs further follow up and whether the issue should be discussed with the Councillor concerned.</p> | <p><i>If there is a health and safety risk</i></p> <p>The CEO will take appropriate steps to address risks to anyone's health and safety. This may include requiring the Councillor to refrain from specific activities.</p> |

7. RELATED POLICIES AND RESOURCES

City of Melbourne Councillor Code of Conduct

City of Melbourne Occupational Health and Safety Policy

Local Government Act 1989

Occupational Health and Safety Act 2004

Workplace Injury Rehabilitation and Compensation Act 2013

Equal Opportunity Act 2010

Disability Discrimination Act 1992

Privacy and Data Protection Act 2014

Health Records Act 2001

Context

- The Council is committed to upholding the Victorian Charter of Human Rights and Responsibilities Act 2006.
- The Councillor Code of Conduct and Council's Respectful Conduct Policy recognises the obligation of all Councillors to support a workplace that is free from unlawful discrimination, sexual and other forms of harassment, racial and religious vilification, victimisation and workplace bullying (collectively known as disrespectful conduct).
- The Councillor Code of Conduct outlines the reporting and dispute resolution options available to Councillors in the event of complaints or concerns relating to a breach of the Respectful Conduct Policy. The Code operates in parallel with and does not displace any external avenues for reporting and resolution available to individuals under the law.

Position purpose, role and tenure

Purpose:

- The Independent Respectful Conduct Advisor (IRCA) has been created as an independent resource to support individual Councillors to understand their rights and obligations and the range of internal and external options open to them in respect of specific circumstances that may arise under the Respectful Conduct Policy.

Role:

- The role of the IRCA is to support Councillors in clarifying their rights and obligations regarding matters under the Respectful Conduct Policy and provide Councillors advice about appropriate avenues for reporting allegations of disrespectful conduct.
- The IRCA provides independent and confidential* advice to help clarify the nature and severity of any Councillor complaint, potential options for managing the complaint, as well as access to appropriate information, resources and tools to support its resolution, including separate counselling services.
- The IRCA will increase awareness of internal or external independent complaints processes.
- The IRCA is not engaged to investigate or make determinations in respect of matters under the Respectful Conduct Policy.
- The role of IRCA will always comprise one male and one female.

Appointment and tenure:

- The Council will make two appointments to the role of IRCA to an initial term of 10 months to June 2019.
- Incumbents in the role will participate in annual performance reviews.

Position accountabilities

Specific accountabilities of the IRCA include:

Information

- Providing information and support to a Councillor who makes a complaint of disrespectful conduct.
- Providing information on the grievance and the options that are available to deal with the complaint.
- Informing the Councillor of their rights in relation to relevant Acts.
- Offering the Councillor access to Employee Assistance Program support and counselling services.
- Informing a Councillor the IRCA has a responsibility to escalate complaints to the Chief Executive Officer (CEO) where there are occupational health and safety concerns.

Advice

- Discussing possible strategies the Councillor can use to deal directly with the person, subject to the nature of the complaint, the Councillor's individual needs and circumstances, and the Councillor's preferred course of action.

***Confidentiality**

- Holding the information shared by the Councillor in confidence unless it raises serious occupational health and safety concerns which should be escalated to the CEO, or otherwise must be submitted to appropriate authorities in accordance with the law.
- Otherwise holding in strict confidence the personal particulars of the Councillor who is seeking the IRCA's advice.

Reporting

- Providing quarterly reports to the CEO on the number of contacts made to the IRCA in the required form and manner.
- Alerting the CEO of any occupational health and safety concerns which may result in an investigation initiated by the CEO at his or her own discretion.

Standards

In meeting their responsibilities, the IRCA will need to also comply with the following standards:

- The IRCA will provide Councillors the opportunity to seek advice by phone and/or in person and make themselves available during business hours Monday through Friday.
- Advance notice will be given to the CEO of any planned leave and an alternative backfill for the IRCA during the leave period to be taken.
- The IRCA will be impartial, discrete and professional in all aspects of their role.
- The IRCA is not engaged to investigate or make determinations in respect of matters under the Respectful Conduct Policy. However, the IRCA may be required to participate as a witness to an investigation whether initiated by the CEO or an external authority and for these purposes will be expected to maintain appropriately documented case notes.

Skillset and experience

The IRCA will demonstrate:

- Extensive experience with applying natural justice principles and due process.
- A proven ability to address sensitive personal issues by providing impartial, empathic and independent advice and counsel.
- Ability to relate to individuals of different orientations and perspectives and from diverse backgrounds.
- Understanding and experience in relation to matters of work place bullying, sexual harassment etc, the circumstances in which they arise and the impact they have on individuals.
- Ability to be personally available to individual Councillors seeking advice on a regular basis.
- Understanding of local government.
- No conflict of interest in respect of the Council and individual Councillors.

Amendment, modification or variation:

This Terms of Reference may be amended, varied or modified in writing by mutual agreement.

Related legislation, policies and protocols

City of Melbourne Councillor Code of Conduct

City of Melbourne Council Respectful Conduct Policy

Charter of Human Rights and Responsibilities Act 2006 (Vic).

Age Discrimination Act 2004 (Cth)

Disability Discrimination Act 1992 (Cth)

Equal Opportunity Act 1995 (Vic) and its successor the *Equal Opportunity Act 2010 (Vic)*

Human Rights and Equal Opportunity Commission Act 1986 (Cth)

Human Rights and Equal Opportunity Commission Regulations 1998 (Cth)

Privacy and Data Protection Act 2014 (Vic)

Local Government Act 1989 (Vic)

Occupational Health and Safety Act 2004 (Vic)

Public Administration Act 2004 (Vic)

Racial Discrimination Act 1975 (Cth)

Racial and Religious Tolerance Act 2001 (Vic)

Sex Discrimination Act 1984 (Cth)

Workplace Gender Equality Act 2012 (Cth)



Councillor Code of Conduct 2018

Adopted by Melbourne City Council on [endorsement date] 2018

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SECTION 1: BACKGROUND

1.1 OVERVIEW

The governance arrangements that cover the City of Melbourne are set out in the [Local Government Act 1989](#) (the Act) and the [City of Melbourne Act 2001](#). The primary objective for the Melbourne City Council (Council) is to endeavour to achieve the best outcomes for the local community having regard to the long term cumulative effect of its decisions. Further objectives are set out in the Acts. Good governance is fundamental to the achievement of Council's objectives.

[The Act](#) requires Council to have a Councillor Code of Conduct and prescribes certain requirements.

The Councillor Code of Conduct must set expected standards of Councillor behaviour and provide guidance in the event of any Councillor breach of the Code of Conduct.

This Councillor Code of Conduct (the Code) was adopted by Melbourne City Council (Council) on XX 2018 and is required to be reviewed within four months after a general election. The Councillors have also committed to reviewing the Code annually.

This Code replaces the previous Councillor Code of Conduct adopted by resolution of Council on 15 May 2018.

1.2 PURPOSE

The purpose of the Code is to set out the principles, values, standards and behaviours that will guide Council collectively and the Councillors individually in undertaking their duties and obligations as set out in [the Act](#), the [City of Melbourne Act 2001](#) and all other applicable legislation. This Code is intended to set a high standard of conduct in order to ensure good governance and increase public confidence in the administration of Council. As custodians of a capital city government, the Lord Mayor, Deputy Lord Mayor and Councillors hold unique and important leadership roles within Victoria.

1.3 SCOPE

This Code:

- sets out the behaviour expected of elected representatives of Council
- supports and fosters good working relationships between Councillors, and between Councillors and employees of Council and the community
- mandates conduct by Councillors which builds public confidence in the integrity of local government.

This Code applies to a Councillor who is:

- conducting the business of Council

- conducting the business of the office to which they have been elected or appointed
- acting as a representative of Council.

For the purposes of this Code, the term ‘Councillors’ includes the Lord Mayor, the Deputy Lord Mayor and all other Councillors of Council, except where the context otherwise indicates or requires.

This Code adopts and incorporates relevant Councillor protocols, policies, procedures and other documents, as amended from time to time, which are set out in Appendix 1. By agreeing to this Code, Councillors are expressly agreeing to adhere to the policies in Appendix 1 as agreed by Council at that time.

Legislative obligations of Council and Councillors are expressly set out in the Code where required by legislation. Council and Councillor obligations in [the Act](#), [City of Melbourne Act 2001](#) and other applicable legislation (as amended) apply to Council and Councillors even if not expressly set out in the Code.

This Code should be read alongside other Council documents, including the Council Plan, Council policies, protocols and Council’s local laws, as applicable, which all form part of Council’s governance framework.

This Code should not be read as an exhaustive statement on the rights and obligations of individuals that ordinarily apply under the law, including any avenues of reporting and redress that may be available in specific circumstances.

Where members of the public would like to raise a complaint against a Councillor for a possible breach or offence under the Act or this Code, this may be directed to the Chief Municipal Inspector or the City Of Melbourne Principal Conduct Officer.

1.4 COUNCILLOR COMMITMENT TO THE CODE OF CONDUCT

I, as an elected representative of the community charged with decision making for the City of Melbourne, am committed to undertaking the duties and responsibilities of my office by working together with my fellow Councillors in a respectful and constructive manner to achieve the goals and vision for our city.

I recognise the importance of acting in accordance with the highest standards of governance, and that this is essential to honest, accountable and effective government. My behaviour towards my colleagues, the employees of Council and the community is critical to the teamwork required to be a successful and highly functioning public authority.

I acknowledge that I have been elected by the community to a position of significant responsibility with the expectation that I will act in accordance with accepted values of our society.

I also acknowledge that Council is committed to the ICARE values of integrity, courage, accountability, respect and excellence. These values and associated obligations are set out in this Code together with additional conduct requirements and processes for the

management of behaviour which does not meet the required standards. The Code also incorporates specified protocols, policies and procedures which underpin the values and provide guidance for the implementation and management of Councillor conduct.

As a Councillor of the City of Melbourne I agree to:

- act in accordance with the principles of good governance and respectful conduct and associated obligations set out in the Code and legislation
- provide civic leadership and contribute effectively to the interests and advancement of Council and its community
- contribute to the strategic vision for Council
- uphold the public trust in the office of Councillor by refraining from any action or behaviour that would bring Council into disrepute
- act in accordance with all my obligations to the best of my skill and judgment.

This Code sets out my commitment to my fellow Councillors and the community to govern the city in a manner which accords with the expressed behaviours, standards and values.

This Code will be reviewed in accordance with relevant legislative obligations. Additionally, every twelve months Councillors will review this Code to ensure that it meets and continues to meet community standards and expectations.

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

Lord Mayor Sally Capp

Deputy Lord Mayor Arron Wood

Councillor Nicolas Frances Gilley

Councillor Philip Le Liu

Councillor Rohan Leppert

Councillor Kevin Louey

Councillor Cathy Oke

Councillor Beverley Pinder-Mortimer

Councillor Nicholas Reece

Councillor Susan Riley

Councillor Jackie Watts

Witnessed by Chief Executive Officer, Ben Rimmer

SECTION 2: COUNCILLOR CONDUCT OBLIGATIONS

2.1 PRIMARY PRINCIPLES OF COUNCILLOR CONDUCT

As a Councillor, I will:

- act with integrity
- impartially exercise my responsibilities in the interests of the local community
- not improperly seek to confer an advantage or disadvantage on any person.

2.2 GENERAL PRINCIPLES OF COUNCILLOR CONDUCT

In performing my role as a Councillor, I will:

- avoid conflicts between my public duties as a Councillor and my personal interests and obligations
- act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person
- treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council staff and other persons
- exercise reasonable care and diligence and submit myself to the lawful scrutiny that is appropriate to my office
- endeavour to ensure that public resources are used prudently and solely in the public interest
- act lawfully and in accordance with the trust placed in me as an elected representative
- support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

2.3 COUNCILLOR VALUES AND BEHAVIOURS

In undertaking my role as a Councillor I will embrace and demonstrate Council's corporate values, which set out our shared goal to work together for Melbourne. In challenging and inspiring myself and others to realise our vision for the city, I will demonstrate the following:

2.3.1 Integrity

I will conduct activities professionally and ethically and take responsibility for my actions in an honest and transparent way. I endeavour to:

- deal with others fairly and consistently
- follow through on commitments
- represent my views truthfully
- be open to constructive feedback
- consider the whole picture, seek evidence before forming views and be prepared to discuss how views were formed.

This includes, for example:

- abiding by relevant legislation and Council policies, protocols and procedures
- encouraging an environment for the giving of frank advice or raising issues
- supporting fellow Councillors if I believe they have been treated unfairly or disrespectfully.

2.3.2 Courage

I will exercise fortitude in decision-making and accept responsibility for the consequences of my own actions and choices. In doing so I endeavour to:

- raise issues directly, constructively and in an appropriate forum
- be willing to explore new ideas and ways of doing things
- present and debate ideas and innovations to the best of my ability and willingly accept outcomes
- speak for myself rather than relying on others.

This includes, for example:

- being prepared to raise issues through appropriate channels on workplace issues that fall short of expected values and behaviours
- demonstrating leadership by modelling agreed Councillor values and behaviours.

2.3.3 Accountability

I will take personal responsibility for decisions and actions. In doing so, I endeavour to:

- ensure best use of resources
- take responsibility for making sure my personal actions contribute to the agreed outcomes
- act and work in an open and transparent manner and report results
- recognise the achievements of others when appropriate
- be responsive in a timely manner.

This includes, for example:

- ensuring I have up-to-date knowledge of latest workplace standards and appropriate behaviours by seeking information and guidance as necessary
- co-operating with a request by a fellow Councillor when asked to resolve a dispute in accordance with the procedures in this Code
- following up on commitments I have made to members of the community in a timely manner.

2.3.4 Respect

I will value the contribution and individuality of others and contribute to healthy working relationships. In doing so, I endeavour to:

- recognise and encourage the ideas and contributions of others
- show respect when interacting with, speaking to and about others
- respect and relate well to people of diverse backgrounds
- be courteous and approachable and respect others' boundaries
- positively contribute to, and participate in, Councillor group activities
- actively listen to, consider and debate other people's ideas constructively, including when they are different to my own.

This includes, for example:

- treating a fellow Councillor or members of the community as I would like to be treated
- adhering to appropriate protocol during meetings and treating members of the public with dignity
- welcoming officers' frank and fearless advice.

2.3.5 Excellence

I will aim to achieve the highest standards and continuously improve performance to achieve outstanding outcomes for Melbourne. In doing so, I endeavour to:

- be strongly focused on results
- understand what is required to deliver excellence and seek support when needed
- continually strive for improvement.

This includes, for example:

- undertaking any training and development necessary to meet the obligations and standards expected of me
- supporting a culture where everyone lives by shared Council values and standards
- voluntarily contributing to conversations to collectively reflect on our practice of the Code.

2.4 SPECIFIC COUNCILLOR CONDUCT OBLIGATIONS

The following section sets out specific conduct obligations that are agreed by all Councillors.

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.

2.4.1 Decision making

I am committed to making all decisions impartially and in the best interests of the community. I will actively participate in the decision-making process and appropriately inform myself of the matter at hand. Once a decision has been made, I will respect the making of that decision.

The [Councillor Protocol](#) and [Meeting Procedures Code](#) set out the procedures for decision making by Council and I agree to adhere to both.

2.4.2 Use of Council information

I acknowledge that information which is “confidential information” within the meaning of section 77 of [the Act](#) may not be disclosed by me except in certain specified circumstances. I am aware that Council information may also be subject to other legislation including the [Health Records Act 2001](#), [Privacy and Data Protection Act 2014](#) and [Freedom of Information Act 1982](#).

The [Councillor Protocol](#) provides extra context regarding the treatment of 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.

2.4.3 Communications and 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 Protocol](#) sets out the management of media enquiries, release of information and nominated spokespersons.

I will comply with the [Councillor Protocol](#) and respect the roles of Council’s official spokespersons. I will also:

- respect Council’s decisions by not criticising or actively undermining any decisions which have been made

- not bring Council into disrepute through any of my words or actions
- not speak on behalf of Council without authority
- ensure any personal opinions or views I express publicly are identified as my own and not those of Council
- ensure any communications I make are not offensive, derogatory, insulting or otherwise damage the reputation of Council.

2.4.4 Conflict of interest

Sections 77A to 80A of [the Act](#) require each Councillor to identify, manage and 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 an actual or perceived conflict of interest in relation to a matter, I will declare and identify 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.

I understand that the declaration must be in writing, and must be made at any Council meeting, Committee meeting or meeting at which an employee is present, at which the matter is to be discussed.

2.4.5 Significant and/or intimate relationships

I understand that conflict and bias can arise from situations where relatives or people with significant and/or intimate relationships work together, and this can potentially lead or be seen to lead to decisions I make as a Councillor being made for reasons other than the public interest.

If I am involved in a relationship of a significant or intimate nature with another Councillor or an employee, I undertake to disclose the fact of this relationship to the Lord Mayor and the Chief Executive Officer.

2.4.6 Gifts and hospitality

I commit to compliance with my statutory obligations in relation to gifts and hospitality. I also undertake to comply with Council's policy to publicly disclose all gifts, benefits or hospitality received in my capacity as a Councillor, valued at more than \$150 via the Gift Register.

In addition, I commit to notify the Chief Executive Officer and Manager Governance and Legal if in the conduct of my duties, I receive an inappropriate offer or benefit of any kind.

2.4.7 Reporting fraud and corruption

Ethical behaviour is an integral part of responsible, effective and accountable government. I acknowledge Council's obligations under the [Protected Disclosure 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 Protected Disclosures Procedures, any suspected, potential or actual fraudulent, criminal, unethical, corrupt or other unacceptable 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.

2.4.8 Councillor and officer engagement

I have read and understood the requirements of Section 76E of [the Act](#) and I will not seek to improperly direct or influence members of Council staff in the exercise of their duties. I will follow all procedures and protocols which set out interaction between Councillors and the Chief Executive Officer, senior management and other employees.

2.4.9 Use of council resources

I commit to using Council resources effectively and economically and in accordance with all Council policies. In particular, I will:

- use Council resources, which may include equipment, information, staff resources, property of any kind and other assets, which have been provided to me only for the purposes of my duties as a Councillor and not for private purposes unless properly authorised to do so
- maintain adequate security over Council property, facilities and resources in my possession or control
- ensure that any claim for expenses that I may make will be in accordance with all legislative obligations and Council policies
- not use public funds or resources in a manner that is improper or unauthorised.

2.4.10 Meeting planning permit applicants

When proposing to meet with a known or proposed planning permit applicant (or property owner, or their representative), either for the purpose of discussing the application or where the application is likely to become a topic of discussion, I will hold the meeting with a planning officer present.

2.4.11 Political activity

I am committed to ensuring that elections conducted by the City of Melbourne are conducted fairly and democratically and in accordance with the highest standards of governance. Where I am a sitting Councillor during an election period I will abide by the requirements of the applicable legislation and the Council-endorsed [Election Period Policy](#) and, whether or not I am standing for re-election, I will at all times act respectfully towards all candidates for the election.

2.4.12 Human rights and equal opportunity

I acknowledge the human rights that are protected under the [Victorian Charter of Human Rights and Responsibilities Act 2006](#) and undertake to exercise my duties in a manner that is compatible with the rights set out in the Charter.

I acknowledge this undertaking extends to all my relationships as a Councillor, including with other Councillors, the Chief Executive Officer and Council employees, as well as any member of the public with whom I may have contact, and any decisions I participate in as a Councillor.

I am committed to treating all people with dignity and respect in accordance with Council's Respectful Conduct Policy, which recognises that there is no place for unlawful discrimination, harassment (sexual or otherwise), racial and religious vilification and victimisation of any individual.

I will adhere to Council's Respectful Conduct Policy.

2.4.13 Sexual harassment

Sexual harassment is against the law and will not be tolerated under any circumstances. I will not engage in any unwelcome conduct of a sexual nature towards another individual where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the individual harassed would be offended, humiliated or intimidated.

I will adhere to Council's Respectful Conduct Policy.

2.4.14 Bullying, vilification and victimisation

Council is committed to maintaining a workplace that is free from bullying, vilification and victimisation, where all people are treated with dignity and respect. I will uphold Council's obligations to support a safe workplace, and will not engage in repeated unreasonable behaviour toward another Councillor or member of Council staff that creates a risk to the health and safety of that other Councillor or member of Council staff.

I will adhere to Council's Respectful Conduct Policy.

2.4.15 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.

I will adhere to Council's Occupational Health and Safety Policy.

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, through the Chief Executive Officer, its general duties to ensure a safe workplace that is without risks to health by ensuring appropriate systems and policies are in place to manage those risks.
- consider any health and safety implications of Council decisions.

2.4.16 Fitness to carry out duty

Council is committed to providing and maintaining a work environment that is safe and without risks to health. I acknowledge that a physical or psychological impairment may impact on my fitness to carry out duty and, left unaddressed, may negatively affect the health and safety of myself and others. I also acknowledge that a range of factors and circumstances can impact on the satisfactory performance of my duties, including the consumption of alcohol and other drugs, even if legal and prescribed.

I will adhere to Council's Fitness to Carry Out Duty Policy.

2.4.17 Interacting with children

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 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
- support and maintain Council's commitment to the safety and wellbeing of children and young people and including through any decision I participate in as a Councillor

- take all reasonable steps to protect children and young people from harm, including complying with Council's obligations under State and Federal child protection legislation.

2.4.18 Commitment to best practice

We acknowledge that in fulfilling the statutory requirements of our role, a shared understanding of our obligation and the practical ways that we perform our duties is necessary for good governance. To achieve this shared understanding, I commit to take all reasonable steps to become familiar with Councillor policies and protocols and participate in any reviews of these documents.

SECTION 3: CoM DISPUTE RESOLUTION

3.1 PURPOSE

This part describes the processes for Councillors who wish to report and resolve a dispute with another Councillor under the Code. Councillors recognise that the democratic process of local government involves holding, and expressing, different and sometimes opposing viewpoints. It is a normal, and vital, function of this process that these different views are shared in a considered and informed way. Although all Councillors strive to engage in positive, constructive and respectful interactions, conflict and/or disputes may arise.

All Councillors recognise that they hold an individual and collective responsibility to resolve disputes in a proactive, positive and courteous manner before they are escalated, to avoid such disputes threatening the effective operation of Council.

The primary purpose of an internal resolution procedure is to provide Councillors with support and mechanisms to resolve conflicts and disputes in a manner that enables them to move forward and establish and maintain effective working relationships. The procedure also provides avenues and guidance for escalating more serious issues and allegations where required.

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
- 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 Disclosure Act 2012](#) .

3.2 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 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.

For the purposes of this part:

- 'Principal Conduct Officer' refers to an appointee of the Chief Executive Officer 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 with Victoria Police or other relevant 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.

For the avoidance of doubt, a Councillor or member of the public may raise a formal complaint through any available channel external to Council as provided by law.

In particular, some allegations of Councillor misconduct under this Code may also constitute misconduct or serious misconduct under the Act. In these instances, it is open to Council, a Councillor, or a group of Councillors, to make an application for a Councillor Conduct Panel. For allegations of gross misconduct, Council, a Councillor(s) or members of the public can raise complaints to the Local Government Investigations and Compliance Inspectorate.

3.3 RESPONSIBILITIES

3.3.1 Lord Mayor and Deputy Lord Mayor

The Lord Mayor and Deputy Lord Mayor have a responsibility to:

- establish and promote appropriate standards of conduct
- support good working relations between Councillors
- support Councillors in dispute resolution.

3.3.2 Principal Conduct Officer

The Principal Conduct Officer has a responsibility to:

- assist Council in the implementation and conduct of the internal resolution procedure
- assist the Principal Councillor Conduct Registrar to perform the functions specified in section 81T of [the Act](#).

3.3.3 Chief Executive Officer

The Chief Executive Officer (CEO) has a responsibility to:

- ensure that support and assistance is available to all Councillors where it is required
- take all reasonable steps to ensure the consistent and accountable application of this policy across Council
- comply with all relevant legislation as the senior officer within Council administration.

3.3.4 Councillors

Councillors as defined in this section 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.

3.4 INFORMAL RESOLUTION BETWEEN PARTIES TO A DISPUTE

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, stop any behaviour that is causing issues, and to avoid the issue escalating and threatening the effective operation of Council.

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

3.5 FORMAL DISPUTE RESOLUTION AND REPORTING

3.5.1 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.

To report an allegation that a Councillor has contravened the Code in relation to an interpersonal dispute, a Councillor(s) must prepare a written application (the application) to the Lord Mayor, or where not appropriate (including where the Lord Mayor is involved in the allegation) the Deputy Lord Mayor or the Principal Conduct Officer, requesting that the matter be dealt with under the formal dispute resolution procedure. Such written application should include the name of the other Councillor and the details of the issue or dispute.

The Lord Mayor (or Deputy Lord Mayor or Principal Conduct Officer, where relevant), 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 meeting: Lord Mayor or Deputy Lord Mayor (see section 3.6.1 for detailed information)
- **Mediation** - with an external mediator, via an application to the Principal Conduct Officer (see section 3.6.2 for detailed information)
- **Arbitration** - with an independent arbiter, via an application to the Principal Conduct Officer (see section 3.6.3 for detailed information)

3.5.2 ALLEGATION OF IMPROPER CONDUCT

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

To report an allegation that a Councillor engaged in improper conduct in breach of the Code a Councillor(s) must prepare an application to the Principal 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
- be signed and dated by the Applicant or the Applicant's representative.

Approach to resolution

Where a Councillor raises an allegation of improper conduct against another Councillor and they want it dealt with by way of an internal dispute resolution procedure, they have the option of requesting:

- **Arbitration** - with an independent arbiter (see section 3.6.3 for detailed information)

3.5.3 ALLEGATION OF DISRESPECTFUL CONDUCT

An allegation that a Councillor has engaged in disrespectful conduct may involve behaviour such as unlawful discrimination, sexual harassment, harassment, victimisation or bullying, or other breach of the City of Melbourne's policy in regard to respectful conduct.

In instances where a Councillor has a complaint or concerns relating to disrespectful conduct they may make contact with the Independent Respectful Conduct Advisor (IRCA). The IRCA will support the Councillor(s) in clarifying their rights and obligations and making decisions about appropriate avenues to report the Councillor(s)' allegation of sexual harassment and other disrespectful conduct.

In order to report an allegation of disrespectful conduct against a Councillor, a Councillor(s) must prepare an application to the Principal Conduct Officer or the CEO. 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 Council's policies or procedures 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
- be signed and dated by the Applicant or the Applicant's representative.

Approach to resolution

Where a Councillor raises an allegation of disrespectful conduct against another Councillor they have the option of requesting:

- **Mediation** - with an external mediator (see section 3.6.2 for detailed information)
- **Arbitration** - with an independent arbiter (see section 3.6.3 for detailed information)
- **Investigation** - by an independent investigator appointed by the CEO (see section 3.6.4 for detailed information)

3.6 DISPUTE RESOLUTION OPTIONS

3.6.1 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 Lord Mayor or Deputy Lord 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 or the Principal Conduct Officer 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 65 of [the Act](#) and the Code.

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 Principal Conduct Officer.

Where the dispute remains unresolved, a party may request mediation or arbitration.

3.6.2 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 Principal Conduct Officer.

The Principal Conduct Officer 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, they are to provide their reasons for not doing so in writing to the Principal Conduct Officer. These reasons may be taken into account if the matter is subsequently the subject of an application for a Councillor Conduct Panel.

If the other party agrees to participate in mediation, the Principal Conduct Officer is to advise the party seeking the mediation, the Lord Mayor and CEO.

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

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

If the parties cannot resolve the dispute at the mediation meeting, a further 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 Principal Conduct Officer.

Where the dispute remains unresolved, a Councillor may request the appointment of an arbiter.

3.6.3 APPOINTMENT OF AN ARBITER

An arbitration involves a party (the Applicant) to a dispute requesting the Principal Conduct Officer appoint an impartial third party (the Arbiter) to make findings in the relation to allegations concerning another Councillor(s) (the Respondent) and whether they have breached the Code or Council's policies or procedures.

The application must:

- specify the name of the Councillor/Respondent who is the subject of the allegation or complaint
- specify the provision(s) of the Code and/or Council's policy or procedure that the dispute/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
- be signed and dated by the Applicant or the Applicant's representative.

An Applicant may withdraw an application for arbitration at any time. Once an application has been withdrawn, the same or a similar application relating to the same issues or dispute in relation to the other Councillor cannot be resubmitted by the Applicant.

On receiving an application, the Principal Conduct Officer will:

- advise the CEO (and the Lord Mayor as appropriate) of the application without undue delay
- provide a copy of the application to the Respondent who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application
- identify an Arbiter to hear the application
- obtain from the Arbiter written advice that they have no conflict of interest in relation to the Councillors involved
- 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
- consider the grounds of any objection and appoint the proposed Arbiter or identify another Arbiter
- 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
- after consultation with the Arbiter, advise the Applicant and the Respondent of the time and place for the hearing
- attend the hearing(s) and assist the Arbiter in the administration of the process.

In identifying an Arbiter to hear the application, the Principal Conduct Officer will select an Arbiter who is suitably independent and able to carry out the role fairly.

The role of the Arbiter includes:

- consider an application alleging a contravention of the Code or breach of Council's policies or procedures
- make findings in relation to the application
- provide a written statement of reasons supporting the findings to the parties at the same time as providing the findings to Council
- recommend an appropriate sanction or sanctions where the Arbiter has found that a Councillor has contravened the Code or Council's policies or procedures.

In considering an application alleging a contravention, an Arbiter will:

- in consultation with the Principal Conduct Officer, fix a time and place to hear the application
- authorise the Principal Conduct Officer to formally notify the Applicant and the Respondent of the time and place of the hearing
- hold as many meetings as they consider necessary to properly consider the application. The Arbiter may also hold a directions hearing.
- have discretion to conduct the hearings as they deem fit while ensuring that the hearings are conducted with as little formality and technicality as is due and proper to consider the application
- ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter
- consider an application by a party to have legal representation at the hearing
- ensure that the rules of natural justice are observed and applied in the hearing of the application
- ensure that the hearings are closed to the public and held in confidence.

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

An Arbiter:

- may find that a Councillor who is a Respondent to an application has not contravened the Code or Council's policies and procedures
- may find that a Councillor has breached the Code or Council's policies or procedures

- will suspend the process during the election period for a general election.

The Arbiter is to provide a copy of his or her findings and the statement of reasons to Council and the parties. At the same time the Arbiter provides the findings and statement of reasons, they shall, where a Councillor has been found to have contravened the Code or Council's policies or procedures, 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, as far as is practicable, to the next ordinary meeting of Council for its consideration.

If an arbiter has found that a contravention of the Code or Council's policies or procedures has occurred, Council may, after considering the Arbiter's findings, statement of reasons and recommendation on sanctions, provide any or all of the following written directions to the Councillor:

- direct the Councillor to make an apology in a form or manner specified by Council
- direct the Councillor to not attend up to, but not exceeding, two meetings of Council (in respect of the next scheduled meetings of Council)
- direct that, for a period of up to, but not exceeding, two months on a date specified by the Council, the Councillor:
 - be removed from any position where the Councillor represents Council; and
 - 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 will cooperate with the arbitral process and provide reasonable assistance to the Arbiter.

An application cannot be made for an internal resolution by arbitration during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the Respondent to an application for an arbitration is not returned to office as a Councillor in the election, the application lapses. If the Respondent is returned to office in the election, the application may resume if:

- the application was made by Council and Council so resolves; or
- the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- the Applicant (individual Councillor) is returned to office and wishes to proceed with the application.

3.6.4 FAILURE TO PARTICIPATE IN INTERNAL RESOLUTION PROCEDURE

A Councillor who does not participate in the internal resolution procedure may be guilty of misconduct. [The Act](#) provides that misconduct by a Councillor means any of the following:

- failure by a Councillor to comply with Council's internal resolution procedure
- failure by a Councillor to comply with a written direction given by Council under section 81AB
- repeated contravention of any of the Councillor conduct principles.

Allegations of misconduct are heard on application to the Principal Councillor Conduct Registrar.

3.6.5 INVESTIGATION

A Councillor or a group of Councillors may make a request of the CEO to initiate an investigation in respect to serious allegations of disrespectful conduct.

A confidential preliminary investigation takes place on a 'without admission' basis, independent of the Council, and is required to determine, to an appropriate level of proof, whether the conduct that is alleged did indeed take place and whether the conduct of a Councillor may present a serious risk to occupational health and safety.

Allegations that call into question the safety of the City of Melbourne workplace to a serious extent must be managed appropriately, and investigated if necessary, in order for the Council and the CEO to meet their corporate and individual OHS obligations.

Where the application concerns an allegation that a Councillor has contravened the Code or engaged in disrespectful conduct against another Councillor, 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 Council's policies and procedures 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
- be signed and dated by the Applicant or the Applicant's representative.

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

After receiving an application from a Councillor or at the CEO's own initiative 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 relevant legislation, this Code or Council's policies or procedures. A confidential and legally privileged investigation will only be commissioned 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. A Councillor who is the subject of an independent investigation agrees, on a 'without admission' basis, to voluntarily take leave during the course of the investigation.

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, take the following actions, including:

- recommending to Council that respectful conduct training is provided for Councillor(s), or that a Councillor make an apology in a particular form or manner to an individual or group
- recommending that Council make a public statement regarding the findings of the investigation report, and/or release a summary of the investigation report
- referring the findings to the Chief Municipal Inspector or other appropriate authority for further investigation.

SECTION 4: DEFINITIONS

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| Chief Executive Officer | The Chief Executive Officer of Council of the City of Melbourne |
| Chief Municipal Inspector | The Chief Municipal Inspector is responsible for investigating and prosecuting possible breaches and offences under the <i>Local Government Act 1989</i> , investigating allegations of Councillor misconduct, serious misconduct and gross misconduct, making an application for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor and making an application to the Victorian Civil and Administrative Tribunal for a finding of gross misconduct by a Councillor. |
| conflict of interest | A Councillor has a conflict of interest where a reasonable and informed person would perceive they could be influenced by a private interest when carrying out their public duty. |
| Councillor | All references to 'Councillor' include the Lord Mayor, Deputy Lord Mayor and elected members of the Melbourne City Council except as expressly provided. |
| Councillor Conduct Panel | A panel established under the <i>Local Government Act 1989</i> to hear applications and make findings of alleged misconduct or serious misconduct by a Councillor. |
| disrespectful conduct | 'Disrespectful conduct' includes unlawful discrimination, sexual and other forms of harassment, victimisation, racial and religious vilification, and bullying. |
| employee | An employee of Council includes all members of staff, contractors and volunteers under the direct control or supervision of the City of Melbourne. |
| gross misconduct | 'Gross misconduct' by a Councillor means behaviour that demonstrates that a Councillor is not of good character or is otherwise not a fit and proper person to hold the office of Councillor. |
| improper conduct | 'Improper conduct' includes a failure to disclose a conflict of interest, a breach of confidentiality, the improper direction or influence of staff, the improper use of Council resources, or a breach of Council policy under the Code of Conduct by a Councillor. |

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| Independent Respectful Conduct Advisor (IRCA) | An independent external advisor available to Councillors to provide advice and assistance on matters relating to disrespectful conduct under the Code of Conduct including options for reporting and resolving complaints. |
| misconduct | Misconduct by a Councillor means any of the following: <ul style="list-style-type: none">• failure by a Councillor to comply with Council's internal resolution procedure; or• failure by a Councillor to comply with a written direction given by Council following a finding the Councillor has contravened the Code of Conduct; or• repeated contravention of any of the Councillor conduct principles. |
| Principal Conduct Officer | A person appointed by the Chief Executive Officer to assist Council in implementing its internal resolution procedure. |
| Principal Councillor Conduct Registrar | The Principal Councillor Conduct Registrar receives applications for the establishment of Councillor Conduct Panels under the <i>Local Government Act 1989</i> . |
| serious misconduct | Serious misconduct by a Councillor means: <ul style="list-style-type: none">• the failure of a Councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor; or• the failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give; or• the failure of a Councillor to comply with a direction of a Councillor Conduct Panel; or• continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by a Councillor Conduct Panel; or• bullying of another Councillor or member of Council staff by a Councillor; or• improper direction or influence by a Councillor in respect of a member of Council staff; or• the release of confidential information by a Councillor. |
| The Act | All references to 'the Act' are to the <i>Local Government Act 1989</i> . |

APPENDIX 1: INCORPORATED RELEVANT DOCUMENTS

There are five incorporated documents that Councillors commit to adhering to in signing the Code. They are:

[Councillor Protocol](#)

[Councillor Expenses and Resources Guidelines 2017](#)

[Councillor Fitness to Carry Out Duty Policy](#)

[Councillor Occupational Health and Safety Policy](#)

[Councillor Respectful Conduct Policy](#)

APPENDIX 2: RELEVANT LEGISLATION

[Local Government Act 1989](#) (Vic)

[City of Melbourne Act 2001](#) (Vic)

[Child Wellbeing and Safety Act 2005](#) (Vic)

[Equal Opportunity Act 2010](#) (Vic)

[Occupational Health and Safety Act 2004](#) (Vic)

[Protected Disclosure Act 2012](#) (Vic)

[Sex Discrimination Act 1984](#)

[Victorian Charter of Human Rights and Responsibilities Act 2006](#)