



Councillor Respectful Conduct Policy 2020

Adopted by Melbourne City Council on 15 December 2020

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 2020 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 2020* 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 Councillor 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.

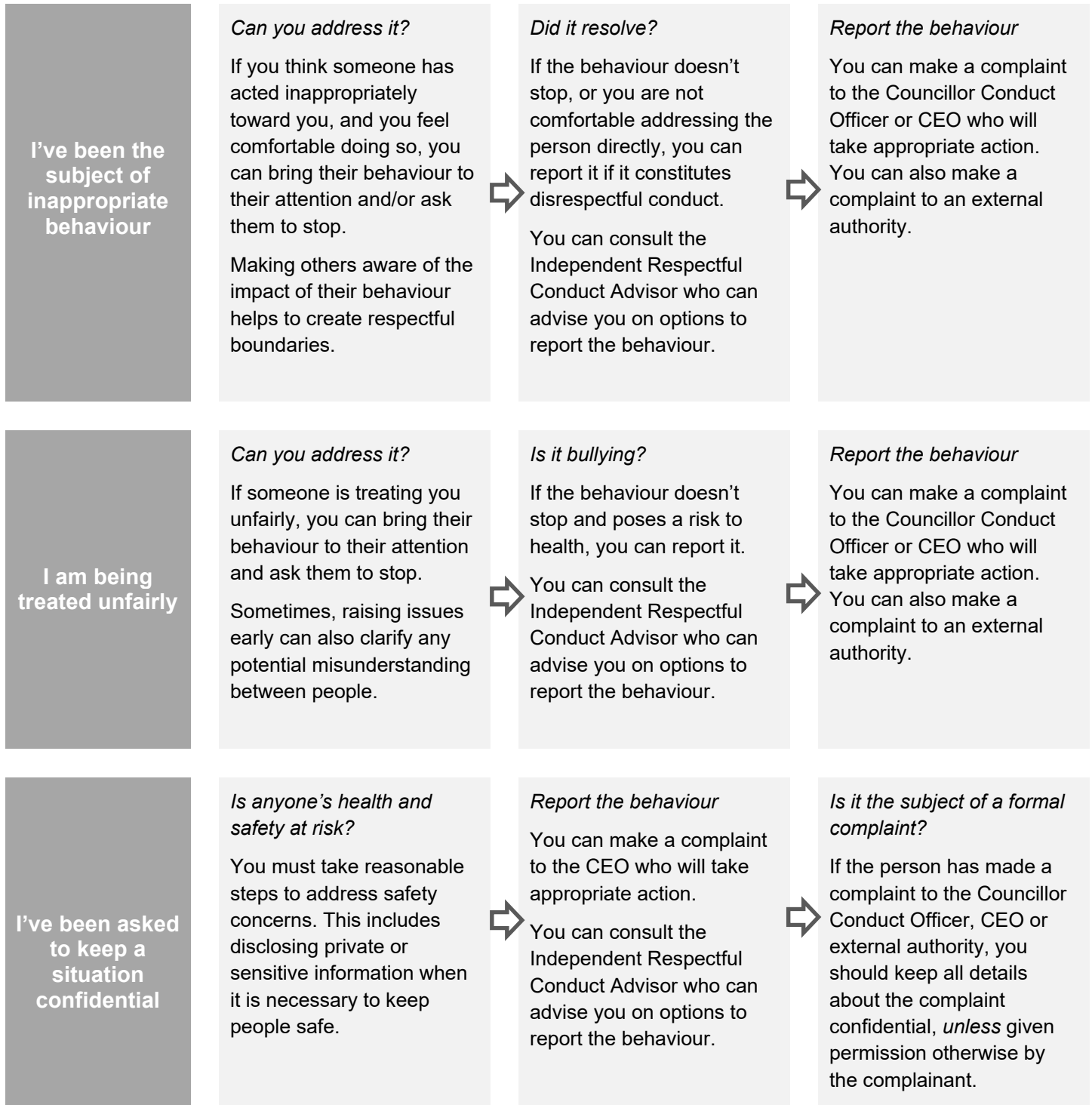
If the IRCA believes an issue has been brought to their attention that creates a risk to the health and safety of a Councillor or another person, they may raise the matter with the CEO on a confidential basis.

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 2020 (Vic)

Local Government (Governance and Integrity) Regulations 2020 (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)