



CORANGAMITE
SHIRE

Councillor Code of Conduct

Corangamite Shire

January 2021

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CORANGAMITE
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Councillor Code of Conduct

1. Introduction

This Code of Conduct sets out the values, standards and behaviours expected to be observed by Councillors in the course of performing their duties and functions. The Code governs not only the use of Council resources, but also relationships between Councillors, recognising that these relationships are critical to good governance.

The Code is in accordance with the provisions of the *Local Government Act 2020* (the Act) and *Local Government (Governance and Integrity) Regulations 2020* (the Regulations), and complements the *Governance Rules, Local Law No.3*, as well as other Council policies.

As democratically elected Councillors of Corangamite Shire, we are committed to working together in the best interests of the people within our municipality and to discharging our responsibilities to the best of our skill and judgement.

2. Values

Values we uphold are:

- Respect
- Integrity
- Teamwork.

3. Application of the Code of Conduct

A Councillor must observe the Code of Conduct whenever he or she:

- a) conducts the business of the Council
 - b) conducts the business of the office to which he or she has been elected or appointed
 - c) acts as a representative of the Council
- or
- d) is in any dealings with the public and or generally in the public arena.

4. Councillor Standards of Conduct

We commit ourselves to ensure that our behaviour is consistent with the Standards of Conduct as set out in the Regulations.

4.1 Treatment of Others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor:

- a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the *Equal Opportunity Act 2010*; and
- b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and

- c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

4.2 Performing the Role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor:

- a) undertakes any training or professional development activities the Council decides is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

4.3 Compliance with Good Governance Measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following:

- a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- b) the *Council Expenses Policy* adopted and maintained by the Council under section 41 of the Act;
- c) the *Governance Rules* developed, adopted and kept in force by the Council under section 60 of the Act;
- d) any directions of the Minister issued under section 175 of the Act.

4.4 Councillor Must Not Discredit or Mislead Council or Public

- a) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
- b) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

4.5 Standards Do Not Limit Robust Political Debate

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

5. Roles and Responsibilities

We understand that the relationship between elected officials and employed staff of the Shire is critical to ensuring that the Council can meet its objectives and fulfil its obligations to the community. Broadly, we commit ourselves to open and respectful relationships, while specifically we note the particular importance of the following relationships.

5.1 Mayor/Councillors

The functions of Mayor are defined in Part 2 Division 3 of the Act. We will support the Mayor in the execution of his/her role, ensuring that the office of Mayor continues to be held in high esteem by the community.

5.2 Councillors/Councillors

The role of Councillors is defined in section 28 of the Act.

We know that the effective functioning of Council is based on harmonious relationships between Councillors.

We will strive for shared understanding and knowledge of issues critical to our community as a whole, and provide our fellow Councillors with the benefit of our local knowledge.

We will consider the manner in which we engage with each other, acknowledging that we may at times have differing opinions. We will strive to undertake our discussions and debates in respectful, open way.

We understand that the discussions of Council are not merely a forum in which to put our own opinion but also a forum in which to listen and encourage the views of others.

We will not resort to verbal or physical abuse, nor will we tolerate this behaviour by others.

5.3 Mayor/Chief Executive Officer (CEO)

Section 46 of the Act includes the responsibility of the CEO for supporting the Mayor in the performance of his or her role. We have an expectation that the role of the Mayor includes regular interaction with the CEO to ensure that information relevant to councillors and staff is communicated swiftly.

5.4 Councillors/Chief Executive Officer (CEO)

The role of a Councillor does not include the performance of any functions that are specified as functions of the CEO under section 46 of the Act.

We recognise that maintaining a strong working relationship between Councillors and the CEO builds on the organisations understanding of our varied communities and increases the engagement between communities and the organisations employed staff. We will therefore ensure that our exchange of information is forthright and respectful.

5.5 Councillors/Council Staff

The Chief Executive Officer is responsible for managing interactions between Council Staff and Councillors, ensuring that appropriate policies, practices and protocols are in place which govern arrangements for their interaction, including access to Council offices/buildings.

We express our commitment to a high level of professionalism in our interaction with Council staff. We recognise that our interaction with Council staff, where appropriate should predominantly occur following initial contact with the Chief Executive Officer or relevant Director. We acknowledge that it is an offence to direct a member of Council staff in a manner described by section 124 of the Act.

Our commitment to steadfastly avoid the misuse of Council resources includes an undertaking to ensure that Council staff are not diverted by personal requests from Councillors.

We will refer any complaint regarding a member of Council staff to the Chief Executive Officer.

5.6 Personal Relationships between Councillors or Staff

Where a personal relationship exists between another Councillor or member of Council staff, we will disclose the relationship and its nature to the Chief Executive Officer due to the possibility of a conflict of interest arising during the performance of our role as Councillor.

6. Councillor Obligations

The following are agreed conduct obligations that complement the prescribed Standards of Conduct.

6.1 Courtesy and Respect

We will treat all people with **courtesy and respect**, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. This includes:

- a) Treating members of the community with dignity and making all efforts to ensure that neither offence nor embarrassment are caused.
- b) Treating fellow Councillors with respect, even when disagreeing with their views or decisions.
- c) Debating contentious issues without resorting to personal acrimony or insult.
- d) Acting with courtesy towards Council staff and avoiding intimidatory behaviour.

6.2 Integrity and Honesty

We will always act with **integrity and honesty**:

- a) Being honest in all dealings with the community, with other Councillors and with Council staff.
- b) Always acting with impartiality and in the best interests of the community as a whole.
- c) Not acting in ways that may damage the Council or its ability to exercise good government.

- d) Exercising reasonable care and diligence in performing our functions as Councillors.
- e) Complying with all relevant laws, be they Federal, State or Local Laws.

6.3 Position of Trust

We recognise that we hold a **position of trust** and will not misuse or derive undue benefit from our positions:

- a) We will avoid conflicts of interest and comply with the relevant provisions of the Act, the *Governance Rules* and this Code of Conduct relating to interests and conflicts of interest.
- b) We will not exercise undue influence on other Councillors, members of Council staff or members of the public to gain or attempt to gain an advantage for themselves.
- c) We acknowledge it is an offence under section 123 of the Act to misuse our position in a manner described in that section.

6.4 Gifts

We will comply with the *Councillor Gift Policy*.

6.5 Council Resources

We will exercise appropriate prudence in the use of **Council resources**. This includes:

- a) Maintaining appropriate separation between personal property and Council property in the care of the Council.
- b) Not using Council resources, including staff, equipment and intellectual property for electoral or other personal purposes.
- c) Ensuring that Council resources are always used effectively and economically and for the purposes for which they are provided.
- d) Ensuring that claims for out of pocket expenses are accurate and relate strictly to Council business.

6.6 Council Information

We will treat **Council information** appropriately, by:

- a) Not using information gained by virtue of being a Councillor for any purpose than to exercise their role as a Councillor.
- b) Respecting the Council's policies in relation to public comments and communications with all forms of media.
- c) Not releasing information deemed 'confidential information', acknowledging that under section 125 of the Act it is an offence to disclose confidential information in the circumstances described in that section.
- d) Recognising the requirements of the *Privacy and Data Protection Act 2014* regarding the access, use and release of personal information.
- e) Acknowledging that any information conveyed will be provided to all other Councillors.
- f) Seeking advice from the Chief Executive Officer if we are unsure if a matter is confidential, but acknowledging that the legal onus to maintain confidentiality rests on individual Councillors.

6.7 Council Decision Making

We are committed to making all decisions impartially and in the best interests of the whole community and acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance. Accordingly:

- a) We will actively and openly participate in the decision making process, striving to be informed and to achieve the best outcome for the community.
- b) We will respect the views of the individual in the debate. However, we also accept that decisions are based on a majority vote.
- c) We accept that no Councillor can direct another Councillor on how to vote on any decision.
- d) We will commit to voting in all circumstances unless a conflict of interest provision prevents otherwise.

6.8 Support for Council Decisions

We understand that Council is bound by the decisions made at Council meetings, and that while we may not agree with all decisions taken, it is our responsibility to ensure stability of governance in our Shire.

Notwithstanding our right to express our views and the views of our constituents on any given matter, we will respect decisions made by Council and give our support to them

6.9 Conflict of Interest Procedures

We are committed to making all decisions impartially and in the best interests of the whole community. We therefore recognise the importance of fully observing the requirements of the *Local Government Act 2020* regarding the disclosure of conflicts of interest, and will comply with the conflict of interest provisions in the *Governance Rules*.

In addition to the requirements of the Act:

- a) We will give early consideration to each matter to be considered to ascertain if we have a conflict of interest.
- b) We recognise that the legal onus to determine whether a conflict of interest exists rests entirely with the individual Councillor. If a Councillor cannot confidently say that he or she does not have a conflict of interest, the Councillor will declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest.
- c) If the Councillor considers that they may be unable to vote on a matter because of a conflict of interest, they will notify, as soon as possible, the Mayor, CEO or the Committee Chair.

6.10 Personal Dealings with Council

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

6.11 Election Period Procedures

We are committed to fair and democratic elections, good governance practices, and the legislative requirements, as outlined in the *Local Government Act 2020* and in Council's *Governance Rules*, which includes an Election Period Policy.

Should we stand for election to Federal or State Parliament, we will comply with Council's *Councillor Candidates at Federal or State Elections Policy*.

6.12 Interacting with Children and Young People

Council prides itself being a Child Safe organisation with a zero tolerance for child abuse, and adhering to the Victorian Child Safe Standards and related legislation. As such, we undertake to be aware of our responsibilities outlined in Council's *Child Safe Policy* and the processes for reporting and acting on concerns or reports of abuse or neglect of a child.

We commit to respecting, listening to and promoting the rights of children and ensuring our behaviour and interactions with children are age appropriate, respectful, and adhere to the behavioural expectations outlined in the Child Safe Standards.

6.13 Interaction/Relationship to other Policies

Council has developed a range of policies related to Councillor activity and decision making. We undertake to both familiarise ourselves with these policies, adhere to them as required and to seek advice if we are unsure of the policy detail.

We acknowledge that we take a role in the development and review of Council policies and commit to ensuring that policies regarding governance and transparency in our activities are reflective of community expectations and practice of Council.

7. Dispute Resolution

7.1 Informal Dispute Resolution (Facilitated Discussion)

We acknowledge that interpersonal differences and disputes between Councillors may arise from time to time (as distinct from allegations of breaches of the prescribed Standards of Conduct).

We will endeavour to resolve any interpersonal differences or disputes in an informal, courteous and respectful manner between ourselves, recognising that we have been elected to represent the best interests of the community.

Where Councillors in dispute have not been able to resolve the matter between themselves, either or both parties may request the Mayor to convene a meeting for a facilitated discussion. Where the Mayor is party to the dispute, the request is to be made to the Deputy Mayor, or if both the Mayor or Deputy Mayor is involved, the most recent past Mayor. In the absence of a past Mayor, the request is to be made to the Chief Executive Officer. The Deputy Mayor, most recent past Mayor or Chief Executive Officer will perform the functions in this Code ascribed to the Mayor.

The Councillor requesting the meeting is to provide the Mayor with the name of the other Councillor and the details of the difference or dispute in writing. The written request is to indicate that it is for a facilitated meeting for informal dispute resolution. They should also notify the other Councillor of the request and provide a copy of the written request to them.

Where the request relates to an alleged breach of the prescribed Standards of Conduct, the request must:

- specify the name of the Councillor alleged to have breached the Standards
- specify the clause(s) of the Standards that is alleged to have been breached
- the misconduct that the Councillor is alleged to have engaged in that resulted in the breach
- name the Councillor appointed to be their representative where the request is made by a group of Councillors
- be signed and dated by the requestor or the requestors' representative.

Where the request for a facilitated meeting relates to an alleged breach of the Standards of Conduct, the Mayor is to provide the Councillor who is the subject of the request and the Councillor Conduct Officer a copy of the written request.

The Mayor is to ascertain whether or not the other party is prepared to attend a facilitated meeting.

If the other party is not prepared to attend a meeting, the Mayor is to advise the Councillor seeking the meeting. No further action is required of the Mayor.

As participation in the informal dispute resolution process is voluntary, a decline to participate in a facilitated meeting by the other party does not constitute a contravention of this Councillor Code of Conduct.

If the other party consents to a meeting, the Mayor is to convene a confidential meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within ten (10) working days of receipt of the meeting request.

The Mayor may present the parties with guidelines in advance of the meeting or at the meeting, to help facilitate the meeting.

The role of the Mayor 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 28 of the Act and the Code.

The Mayor 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 Councillor Conduct Officer.

Where the dispute remains unresolved, a party may request external mediation. Where the matter relates to an allegation of a breach of the Standards of Conduct, an application for an internal arbitration process may be made.

7.2 External Mediation

A Councillor or a group of Councillors may request that their dispute to be referred to mediation, to be conducted by an external accredited mediator.

The Councillor requesting external mediation is to provide the Councillor Conduct Officer with the name of the other Councillor and the details of the difference or dispute in writing. The written request is to indicate that it is for external mediation. They should also notify the other Councillor of the request and provide a copy of the written request to them.

Where the request relates to an alleged breach of the Standards of Conduct, the request must:

- specify the name of the Councillor alleged to have breached the Standards;
- specify the clauses(s) of the Standards that is alleged to have been breached;
- the misconduct that the Councillor is alleged to have engaged in that resulted in the breach
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicants' representative.

Where the request for external mediation relates to an alleged breach of the Standards of Conduct, the Councillor Conduct Officer is to provide a copy of the written request to the Councillor who is the subject of the request.

The Councillor Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend external mediation. If the other party declines to participate in external mediation, he or she is to provide their reasons for doing so in writing to the Councillor Conduct Officer. These reasons may be taken into account if the matter is subsequently the subject of an application for an Internal Arbitration Process if it is related to an alleged breach in the Standards of Conduct.

If the other party declines to participate in external mediation, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party agrees to participate in external mediation, the Councillor Conduct Officer is to advise the requesting Councillor, the Mayor and Chief Executive Officer as soon as possible.

The Chief Executive Officer is to engage the services of an external mediator to conduct the mediation at the earliest practicable opportunity.

The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to apply for an Internal Arbitration Process where the matter relates to an alleged breach of the Standards of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the Councillor has recourse to apply for an Internal Arbitration Process where the matter relates to an alleged breach of the Standards of Conduct.

7.3 Breaches of the Standards of Conduct (Internal Arbitration Process)

In accordance with the Act, a breach of the prescribed Standards of Conduct is considered misconduct and an Internal Arbitration Process may apply.

An application for an internal arbitration process to make a finding of misconduct may be made by either the Council following a Council resolution, a single Councillor, or a group of Councillors. An application must be made within three (3) months of the alleged misconduct occurring, and in the manner specified by the Principal Councillor Conduct Registrar in any guidelines published under section 149(1)(c) of the Act.

The Internal Arbitration Process and any sanctions that may be imposed are governed by the Act and Regulations.

7.4 Complaints by Members of the Public

A member of the public or a member of Council staff who believes a Councillor has breached the Standards of Conduct, may raise their complaint with another Councillor or Group of Councillors to take up on their behalf. This is the only possible way such a complaint by a member of the public or Council Staff may be considered under the Councillor Code of Conduct. A Councillor is not obliged to take up the complaint on behalf of the complainant.

A member of the public may also raise a formal complaint about a Councillor to the relevant integrity agency external to Council.

8. Review of Code of Conduct

The Code of Conduct must be reviewed within four months after a general election or at any time in accordance with the Act. A copy of this Code of Conduct (as amended from time to time) must be:

- given to each Councillor
- available for inspection at the Council offices
- published on the Council's internet website.

9. Compliance with *Charter of Human Rights and Responsibilities Act 2006*

It is considered that this Code of Conduct does not impact negatively any rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

10. Endorsement

This Code of Conduct was adopted by the Council on 27 January 2021 and is signed by the following Councillors.



Councillor Ruth Gstrein



Councillor Jo Beard



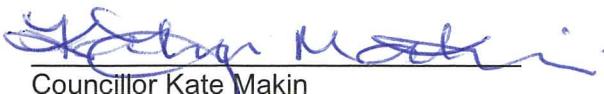
Councillor Geraldine Conheady



Councillor Nick Cole



Councillor Laurie Hickey



Councillor Kate Makin



Councillor Jamie Vogels