



Ararat Rural City

Councillor Code of Conduct

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Councillor Code of Conduct



Ararat Rural City

CONTENTS

1 INTRODUCTION	4
• Preamble.....	4
• Purpose.....	4
2. PERFORMING THE ROLE OF COUNCILLOR	7
• Role of Council	7
• Role of a Councillor	8
• Role of the Mayor	8
• Role Deputy Mayor.....	9
• Role of the Chief Executive Officer.....	9
• Council Decision Making.....	10
• Binding caucus votes.....	10
• Councillor Education.....	10
• Use of Council Information.....	11
• Communications and Media.....	11
• Significant and/or Intimate Relationships.....	11
3: Behaviours.....	12
• Fairness and Equity.....	12
• Harassment, bullying and discrimination	12
• Sexual Harassment	12
• Occupational Health and Safety.....	12
• Gender equity, diversity and inclusiveness – understanding and consideration.....	12
• Cultural awareness.....	13
• Fostering good working relationships with each other and the organisation	13
4 COMPLIANCE WITH GOOD GOVERNANCE MEASURES.....	14
• Personal Interests Declarations	14
• Conflict of interest.....	14
• Governance Rules.....	15
• Managing Interactions between Councillors and Council Staff.....	15
• Council Expenses and Support.....	16
• Gifts, Gratuities and Favours in Kind.....	16
• Meeting planning permit applicants	16
5 COUNCILLORS MUST NOT DISCREDIT OR MISLEAD COUNCIL OR PUBLIC.....	17
• Misuse of Position	17
• Fraud and Corruption Control	17
• Use of Council Resources	18
• Council Records	18
• Access to Council Offices	18
• Elections	19
• External Requests for Service.....	20
6 References.....	21
7 Councillors Commitment.....	22

Councillor Code of Conduct



Ararat Rural City

APPENDIX 1 Dispute RESOLUTION PROCEDURE.....	23
APPENDIX 2 PUBLIC INTEREST DISCLOSURES.....	25

1 INTRODUCTION

Preamble

As Councillors of Ararat Rural City Council, we are committed to working together constructively as a team to achieve our shared vision for the Council. We recognise that good governance, and conduct exists where a strong, democratically elected and proactive Council is dedicated to the interests and progress of its community.

We respect and embrace the Council's diversity making Ararat Rural City, a Council of many assets both natural and built. As Councillors we represent the local community in a fair, transparent and equitable way.

The Code is supported by the principles of the Council Plan as reviewed which includes Strategies and Key Strategic Objectives. Whilst the Council Plan outlines our vision and overall strategy, the Initiatives and Service Performance Indicators are reviewed and updated annually and integrated into our overall operations to ensure the projects and objectives are consistent with the community's needs and Council's broader vision and goals.

Local governments recognise the need for mutual respect, a co-operative attitude and courtesy in their dealings with each other. Regional co-operation can be crucial to effective governance in the interests of communities. Decisions made by co-operating local governments in properly constituted democratic forums must be accorded their legitimacy and authority.

Purpose

This Councillor Code of Conduct (**Code**) goes beyond what is required by the *Local Government Act 2020* and the *Local Government (Governance and Integrity) Regulations 2020* as our commitment to governing this Council effectively with the highest standards of conduct and democratic and corporate governance. The Code applies to all Councillors and relates to the performing of Council powers, duties and functions and all the various forms of decision-making processes.

The Code of Conduct sets out the principles, values, standards and behaviours that will guide us as a Council collectively, and as Councillors individually, in undertaking our duties and obligations as set out in the Act, and all other applicable legislation.

The Local Government (Governance and Integrity) Regulations 2020, schedule 1 outlines the prescribed Standards of Conduct, which we should uphold. The Councillor Code of Conduct has been developed referencing the Standards of Conduct, which are outlined below:

Standards of Conduct

Standard 1: Performing the role of a Councillor

1. A councillor must do everything reasonably necessary to ensure that they perform the role and responsibilities of a Councillor effectively and responsibly, including by
 - a) Representing the interests of the municipal community by considering and being responsive to the diversity of interest and needs of the municipal community; and
 - b) Being fit to perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
 - c) Diligently using Council processes to become informed about matters which are subject to Council decisions; and
 - d) Not performing or purporting to perform any responsibilities or functions of the Chief Executive Officer; and
 - e) Acknowledging and supporting the Mayor in the performance of the role of Mayor, including by
 - i. Respecting and complying with a ruling of the Mayor as the chair of Council meetings (unless dissenting from the ruling in accordance with the Council's Governance Rules); and
 - ii. Refraining from making public comment, including to the media, that could reasonably be perceived to be an official comment on behalf of the Council where the Councillor has not been authorised by the Mayor to make such a comment.

Standard 2: Behaviours

1. A Councillor must treat others, including other Councillors, members of Council staff and members of the public, with dignity, fairness, objectivity, courtesy, and respect, including by –
 - a) Not engaging in demeaning, abusive, obscene, or threatening behaviour, including where the behaviour is of a sexual nature; and
 - b) Not engaging in behaviour that intentionally causes or perpetuates stigma, stereotyping, prejudice or aggression against a person or class or persons; and
 - c) Not engaging in discrimination or vilification; and
 - d) Supporting the Council when applying the Council's community engagement policy to develop respectful relationships and partnerships with Traditional Owners, Aboriginal community controlled organisations, and the Aboriginal community; and
 - e) Supporting the Council in fulfilling its obligation under the Act or any other Act (including the Gender Equality Act 2020) to achieve and promote gender equality; and
 - f) Ensuring their behaviours and interactions with children are in line with the Council's policies and procedures as a child safe organisation and obligations under the Child Wellbeing and Safety Act 2005 to the extent that they apply to Councillors.
2. A Councillor, as an individual at the workplace, must take reasonable care for their own health and safety and take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons by –
 - a) Adhering to applicable systems and policies put in place by the Chief Executive Officer to manage risks to health and safety in the workplace; and
 - b) Complying, so far as the Councillor is reasonably able, with any reasonable instruction that is given by the Chief Executive Officer to manage risks to health and safety

3. A Councillor must act in accordance with any policies, practices and protocols developed and implemented by the Chief Executive Officer under section 46 of the Act that support arrangements for interactions between members of Council staff and Councillors.

Standard 3: Good governance

A Councillor must comply with the following Council policies and procedures required for delivering good governance for the benefit and wellbeing of the municipal community –

- a) The Council's Council expenses policy adopted and maintained under section 41 of the Act;
- b) The Council's Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act, including in relation to –
 - i. Conduct in Council meetings or meetings of delegated committees; and
 - ii. Requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communications; and
 - iii. The Council's election period policy made under section 69 of the Act, including in ensuring that Council resources are not used in a way that is intended to influence, or is likely to influence, voting at a general election or by-election;
- c) The Council's Councillor gift policy adopted under section 138 of the Act;
- d) Any direction of the Minister given under section 175 of the Act.

Standard 4: Integrity

1. A Councillor must act with integrity, exercise reasonable care and diligence and take reasonable steps to avoid any action which may diminish the public's trust and confidence in the integrity of local government, including by –
 - a) Ensuring that their behaviour does not bring discredit upon the Council; and
 - b) Not deliberately misleading the Council or the public about any matter related to the performance of their public duties; and
 - c) Not making Council information publicly available where public availability of the information would be contrary to the public interest.

NOTE: See the public transparency principles set out in section 58 of the Act.
2. A councillor must not, in their personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant) expressly or impliedly request preferential treatment for themselves or a related person or entity.

Standard 5: Robust debate

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

2. PERFORMING THE ROLE OF COUNCILLOR

A councillor must do everything reasonably necessary to ensure that they perform the role and responsibilities of a Councillor effectively and responsibly, including by

- f) Representing the interests of the municipal community by considering and being responsive to the diversity of interest and needs of the municipal community; and*
- g) Being fit to perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and*
- h) Diligently using Council processes to become informed about matters which are subject to Council decisions; and*
- i) Not performing or purporting to perform any responsibilities or functions of the Chief Executive Officer; and*
- j) Acknowledging and supporting the Mayor in the performance of the role of Mayor, including by
 - i. Respecting and complying with a ruling of the Mayor as the chair of Council meetings (unless dissenting from the ruling in accordance with the Council's Governance Rules); and*
 - ii. Refraining from making public comment, including to the media, that could reasonably be perceived to be an official comment on behalf of the Council where the Councillor has not been authorised by the Mayor to make such a comment.**

Role of Council

As Councillors we understand the role of Council as outlined below:

The role of a Council is defined by section 8 of the Act to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.

Council provides good governance if—

- (a) it performs its role in accordance with section 9;
- (b) the Councillors of the Council perform their roles in accordance with section 28.

In performing its role, a Council may—

- (a) perform any duties or functions or exercise any powers conferred on a Council by or under this Act or any other Act; and
- (b) perform any other functions that the Council determines are necessary to enable the Council to perform its role.

If it is necessary to do so for the purpose of performing its role, a Council may perform a function outside its municipal district.

A Council must in the performance of its role give effect to the overarching governance principles and take into account the supporting principles:

We will commit to the following principles and supporting principles:

Overarching Governance Principles -

- (a) Council decisions are to be made and actions taken in accordance with the relevant law;
- (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- (d) the municipal community is to be engaged in strategic planning and strategic decision making;
- (e) innovation and continuous improvement is to be pursued;
- (f) collaboration with other Councils and Governments and statutory bodies is to be sought;

- (g) the ongoing financial viability of the Council is to be ensured;
- (h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- (i) the transparency of Council decisions, actions and information is to be ensured.

Supporting Principles—

- (a) the community engagement principles;
- (b) the public transparency principles;
- (c) the strategic planning principles;
- (d) the financial management principles;
- (e) the service performance principles.

Role of a Councillor

As Councillors we understand and are committed to our role as outlined:

The role of a Councillor is defined by section 28 of the Act to provide greater clarity and better understanding of what is expected of Councillors. The role of a Councillor is to do all of the following:

- to participate in the decision making of the Council;
- to represent the interests of the municipal community in that decision making; and
- to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

In performing the role of a Councillor, a Councillor must do all of the following:

- consider the diversity of interests and needs of the municipal community; and
- support the role of the Council; and
- acknowledge and support the role of the Mayor; and
- act lawfully and in accordance with the oath or affirmation of office; and
- act in accordance with the standards of conduct; and
- comply with Council procedures required for good governance.

The role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer

Role of the Mayor

As Councillors we understand the role of Mayor and Deputy Mayor as outlined:

The functions of Mayor are defined in by section 18 of the **Act** to provide greater clarity and to reflect the role of the Mayor, these are as follows:

- chair Council meetings; and
- be the principal spokesperson for the Council; and
- lead engagement with the municipal community on the development of the Council Plan; and
- report to the municipal community, at least once each year, on the implementation of the Council Plan; and
- promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and
- assist Councillors to understand their role; and
- take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and
- provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and

- perform civic and ceremonial duties on behalf of the Council.

The Mayor is not eligible to be elected to the office of Deputy Mayor.

The Mayor also has the following specific powers:

- to appoint a Councillor to be the chair of a delegated committee;
- to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;
- to require the Chief Executive Officer to report to the Council on the implementation of a Council decision.

Role Deputy Mayor

Council has resolved to elect a Deputy Mayor and as such, the following outlines the role and powers of the Deputy Mayor:

The Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if—

- (a) the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
- (b) the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- (c) the office of Mayor is vacant.

Role of the Chief Executive Officer

As Councillors we understand the role of Chief Executive as outlined:

The Chief Executive Officer is responsible for –

- (a) supporting the Mayor and the Councillors in the performance of their roles and
- (b) ensuring the effective and efficient management of the day to day operations of the Council.

Without limiting the generality of (a) above, this responsibility includes the following—

- ensuring that the decisions of the Council are implemented without undue delay;
- ensuring that the Council receives timely and reliable advice about its obligations under this Act or any other Act;
- supporting the Mayor in the performance of the Mayor's role as Mayor;
- setting the agenda for Council meetings after consulting the Mayor;
- when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision;
- carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Workplace Injury Rehabilitation and Compensation Act 2013.

Without limiting the generality of (b) above, this responsibility includes the following—

- establishing and maintaining an organisational structure for the Council;
- being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff;
- managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between members of Council staff and Councillors are developed and implemented;

- performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act.

Further a Chief Executive Officer must—

- develop and maintain a workforce plan that describes the organisational structure of the Council, specifies the projected staffing requirements for a period of at least 4 years; and sets out measures to seek to ensure gender equality, diversity and inclusiveness; and
 - inform the Council before implementing an organisational restructure that will affect the capacity of the Council to deliver the Council Plan; and
 - consult members of Council staff affected by a proposed organisational restructure, before implementing the organisational restructure.
- A Council and the Chief Executive Officer must, in giving effect to gender equality, diversity and inclusiveness, comply with any processes and requirements prescribed by the regulations for the purposes of this section.
- The Chief Executive Officer must ensure that the Mayor, Deputy Mayor, Councillors and members of Council staff have access to the workforce plan.
- The Chief Executive Officer must develop the first workforce plan under this section within 6 months of the commencement of this section.

Council Decision Making

Council is 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 we will:

- consider matters fairly, by giving consideration and making a decision which is balanced, ethical and impartial;
- consider matters on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations;
- actively and openly participate in the decision-making process, striving to be informed to achieve the best outcome for the community;
- respect the views of the individual in the debate, however we also accept that decisions are based on a majority vote;
- accept that no Councillor can direct another Councillor on how to vote on any decision.

Binding caucus votes

A binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council, irrespective of the personal views of individual members of the group on the merits of the matter before the Council.

This does not prohibit councillors from discussing a matter before the council prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.

We must not participate in binding caucus votes in relation to matters to be considered at a council.

Councillor Education

Council is committed to the development of skilled, knowledgeable and dedicated Councillors. The Mayor and Chief Executive Officer will be responsible for assessing training and development programs that would benefit the Councillors.

Councillor Code of Conduct



Ararat Rural City

We recognise the importance of Councillor training and education as an integral part of our personal growth and development in the performance of our role.

Use of Council Information

We acknowledge that information which is “confidential information” within the meaning of section 125 of the Act may not be disclosed by me except in certain specified circumstances.

We are aware that Council information may also be subject to other Council policy and legislation including the

- Council’s Public Transparency Policy;
- Council’s Privacy and Data Protection and Health Records Policy;
- Health Records Act 2001;
- Privacy and Data Protection Act 2014;
- Public Records Act 1973; and
- Freedom of Information Act 1982.

We will comply with any legislative provisions and Council policies concerning my access to, use of, or disclosure of Council information, whether confidential or otherwise.

Communications and Media

We understand that:

- all media requests will be directed through the Chief Executive Officer and Media and Communications Team;
- the Mayor and the Chief Executive Officer are the official spokespeople for the Council, and are the appropriate people to make statements to the media on Council policy, political matters or the decisions of the Council; and
- any personal opinions or views we express publicly are identified as our own and does not represent a position of Council.

Significant and/or Intimate Relationships

We 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 we make as a Councillor being made for reasons other than the public interest.

If we are involved in a relationship of a significant or intimate nature with another Councillor or a Council officer, we undertake to disclose the fact of this relationship to the Mayor and the Chief Executive Officer.

3: BEHAVIOURS

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.*

Fairness and Equity

We will:

- consider issues consistently, promptly and fairly. Deal with matters in accordance with established procedures, in a non-discriminatory manner;
- take all relevant facts known to us, or that we should be reasonably aware of, into consideration and have regard to the particular merits of each case; and
- not take irrelevant matters or circumstances into consideration when making decisions.

Harassment, bullying and discrimination

Council strives to achieve a healthy, safe, flexible and respectful work environment free from all forms of harassment, discrimination and workplace bullying, as Councillors we will:

- not engage in harassing, discriminatory, bullying or violent behaviour towards another Councillor, employee or with a member of the public with whom we have contact in the course of our term. Council maintains a strong stance that these behaviours are unacceptable and will not be tolerated within the organisation under any circumstance;
- refuse to join in with these types of actions and behaviours; and
- support the person to say 'no' to these behaviours.

Sexual Harassment

Sexual harassment is unlawful and will not be tolerated, we will:

- uphold the principles of Council's Prevention of Sexual Harassment policy; and
- treat others with dignity, courtesy, respect and professionalism and must not engage in unlawful conduct, including sexual harassment.

Occupational Health and Safety

Council is committed to conducting its business activities in such a manner so as to protect the safety of all Councillors, employees, contractors, volunteers and public. As a Councillor, we understand that occupational health and safety is a shared responsibility. Accordingly, we will:

- comply with the Occupational Health and Safety Act;
- take care of our own safety as well as the safety of fellow Councillors and others; and
- consider the health and safety implications of Council decisions.

Gender equity, diversity and inclusiveness – understanding and consideration

As outlined in the Standards of Conduct, Councillors must support Council in fulfilling its obligation to achieve and promote gender equality. Councillors should consider the diversity of interests and needs of the municipality community, treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities. We will support:

- equality – by seeking to remove barriers, eliminating discrimination and ensuring equal opportunity and access for all people;
- diversity - by accepting each person as an individual and believing that everyone should feel valued for their contributions. By working together, we will deliver the best possible service for our community; and
- inclusion - where differences are not merely accepted, but valued and to be a community where people feel involved, respected and connected.

Cultural awareness

Council commits to cultural awareness, and we will:

- acknowledge our Traditional Owners in a way that all people can show their respect for the traditional custodians on which significant Council events are taking place;
The following Acknowledgement of Country statement is read prior to Council Meeting and events: “We acknowledge the traditional owners of the land on which we meet today, and pay our respects to their elders, past, present and emerging.”
- build trust, collaborate and support partnerships with Aboriginal organisations, communities and individuals.
- as a signatory to the Refugee Welcome Zone Declaration, will foster sustained engagement and connections between the Council and newly arrived communities.
- support access and equity for all customers of our services regardless of their nationality, race, culture, sexual orientation or religious beliefs.

Fostering good working relationships with each other and the organisation

It is important for Council and the organisation to foster a good working relationship, we as Councillors, working with officers, will ensure:

- respect – two-way respect and create a place where people want to work;
- information flow – Councillors are provided with the information they need to make sound judgements/decisions and perform their legislated duties and functions;
- responsiveness – it is equally important that information is provided and decisions are implemented without undue delay. When there are delays or requests are denied, Councillors should be given swift and clear advice about the reasons;
- structure – having a documented structure and process around the way information is requested by and provided to councillors. Setting clear ground rules for both parties not only promotes equity and transparency, but also protects the individuals involved; and
- reputation – Councillors and the Chief Executive Officer are focussed on delivering good strategic outcomes for the municipality and enhancing Council's reputation as an effective entity — not on building individual professional or political profiles.

4 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.*

Personal Interests Declarations

Personal Interests Returns are a requirement under Division 3 of Part 6 (sections 132-136) of the *Local Government Act 2020*. In addition, the Local Government (Governance and Integrity) Regulations 2020 set out the detail that needs to be provided for each Personal Interests Return.

We acknowledge that Councillors are required to complete an Initial Personal Interest Declaration within 30 days of taking the Oath/Affirmation of Office and return to the Chief Executive Officer.

We understand that further Biannual Personal Interests Returns is required between 1 March to 31 March and 1 September and 30 September each year,

Failure to submit an initial Personal Interests Return or subsequent Biannual Personal Interests Returns by the due dates can attract a penalty of up to 60 penalty units. There are also penalties for intentionally or recklessly providing false or incomplete information.

Conflict of interest

Sections 126 to 128 of the Act require each Councillor to identify, manage and disclose any conflicts of interest they may have.

We acknowledge that we have read and understand these provisions and will abide by them. In the event that we consider that we have an actual or perceived conflict of interest in relation to a matter, we will declare and identify this at the commencement of any discussion on the matter.

We will seek advice from the Chief Executive Officer or other appropriate person if we need assistance on interpretation of the legislative provisions. We understand that the declaration must be either made in writing and given to the Chief Executive Officer or made at any meeting prior to the matter being discussed. We acknowledge that considering, determining, and declaring a conflict of interest is our personal legal obligation as Councillors.

We understand Councillors are able to seek their own independent legal advice in relation to any of their conflict of interest matters.

Governance Rules

As Councillors we will familiarise ourselves with Council's Governance Rules.

The Governance Rules determine the:

- conduct at council meetings;
- form and availability of meeting records;
- elect the Mayor and Deputy Mayor;
- appointment of any Acting Mayor;
- procedures for disclosing conflict of interests;
- procedures for informal meetings; and
- confidential information.

The Governance Rules also provides for Council to:

- consider and make decisions on any matter being considered by the Council fairly and on the merits; and
- institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interest considered.

We believe that we should exhibit the highest standards possible when attending, chairing, and participating in meetings or functions as a Council.

Managing Interactions between Councillors and Council Staff

As effective Councillors we will work cooperatively with the Chief Executive Officer and Council staff. We recognise the division of responsibilities, and that the role of Councillors is to represent the interests of the municipal community in decision making contribute to the strategic direction of Council, and that the Chief Executive Officer is responsible for management and administration. Therefore, as Councillors, we will be aware of the requirements of section 124 of the Act and must not intentionally direct, or seek to direct, a member of Council staff. It is appropriate to notify the Chief Executive Officer when specific issues or particular functions are required to be undertaken.

In performing our duties as Councillors, we will respect the roles and responsibilities of Council staff and welcome the same respect in return.

In line with occupational health and safety, human rights and equal opportunity legislation, we are committed to ensuring that our interactions with Council staff, each other or others associated with Council, do not breach the requirements of this legislation. As such we are also committed to protecting the health, safety and wellbeing of all Councillors and Council staff and will provide, as far as is practicable, a safe Council working environment that is free from bullying, harassment, discrimination and violent behaviour.

We recognise that as a small rural Council, there is likely to be informal contact between Councillors and Council staff at various times and in various places. We encourage friendly and respectful interaction while acknowledging that formal advice to Council and Councillors comes via the Chief Executive Officer and that this is the advice on which Councillors are entitled to rely.

Councillor Code of Conduct



Ararat Rural City

Council Expenses and Support

We acknowledge the Council Expenses and Support Policy, which supports us to perform our role, by ensuring that expenses reasonably incurred in the performance of our roles are reimbursed. The policy provides guidance on:

- Out of pocket entitlements;
- Processes for reimbursement of bona fide expenses;
- Support available to Councillors; and
- Reporting requirements.

Gifts, Gratuities and Favours in Kind

We commit to compliance with our statutory obligations in relation to gifts and hospitality. We also undertake to comply with Council's policy to disclose all gifts, gratuities and favours in kind offered and/or accepted in my capacity as a Councillor, in accordance with the Council's Gifts, Gratuities and Favours in Kind Policy.

In addition, we commit to notify the Chief Executive Officer if in the conduct of our duties, we receive an inappropriate offer of a gift or hospitality of any kind.

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, We will ensure the interaction with the planning permit applicant (or property owner, or their representative) is documented and advise the Chief Executive Officer.

5 COUNCILLORS MUST NOT DISCREDIT OR MISLEAD COUNCIL OR PUBLIC

- (1) *In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.*
- (2) *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.*

Misuse of Position

We commit to ensuring our behaviours do not bring discredit to Council and have read and understand section 123 of the Local Government Act (M) which states:

- (1) A person who is, or has been, a Councillor or member of a delegated committee must not intentionally misuse their position—
 - (a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
 - (b) to cause, or attempt to cause, detriment to the Council or another person. Penalty: 600 penalty units or imprisonment for 5 years.
- (2) An offence against subsection (1) is an indictable offence.
- (3) For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a delegated committee include—
 - (a) making improper use of information acquired as a result of the position the person held or holds; or
 - (b) disclosing information that is confidential information; or
 - (c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or
 - (d) exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or
 - (e) using public funds or resources in a manner that is improper or unauthorised; or
 - (f) participating in a decision on a matter in which the person has a conflict of interest.
- (4) This section—
 - (a) has effect in addition to, and not in derogation from, any Act or law relating to the criminal or civil liability of Councillors or members of delegated committees; and
 - (b) does not prevent the institution of any criminal or civil proceedings in respect of that liability.

Fraud and Corruption Control

Ethical behaviour is an integral part of responsible, effective and accountable government. We acknowledge Council's obligations under the Public Interest Disclosures Act 2012 to facilitate the making of disclosures of improper conduct by public officers and public bodies, including Council, its employees and Councillors.

We will immediately report to the Chief Executive Officer and/or appropriate integrity body, in line with the Council's Public Interest Disclosures Procedures, any suspected, potential or actual fraudulent, criminal, unethical, corrupt or other unacceptable behaviour that comes to my knowledge.

We will participate as required to the best of my ability in any subsequent investigation whether undertaken internally or externally.

We will adhere Council's Fraud and Corruption Control Policy and plan.

Councillor Code of Conduct



Ararat Rural City

Use of Council Resources

We acknowledge that Councillors:

- will be provided with mobile phone, laptop, printer consumables, email address to perform their roles;
- must use Council property, facilities and equipment honestly, efficiently, economically and carefully and in keeping with Council policies and procedures;
- must maintain adequate security over Council property, facilities and resources provided to assist in performing the role of Councillor and compliance with any Council policies applying to their use;
- maintain the confidentiality and security of their own passwords;
- must not attempt to install or remove software or hardware on Council devices;
- must not attempt to access, copy, damage, delete, insert or alter any information held on Council devices;
- must report any stolen property as soon as possible;
- must report any incident, default or problem as soon as possible; and
- must report any computer virus, Trojan or work or other malicious programs affecting Council devices.

We understand that administrative support is provided by the Governance Team.

Council Records

We acknowledge that:

- Councillors must not disclose or provide access to Council records, this will be carried out under authorisation by the Chief Executive Officer or as permitted by legislative requirements;
- Any document read or created as a Council document should be treated as a Council record, including such documents housed on personal devices or with a personal internet service provider (ISP);
- all emails sent or received from Council's system remain the property of Council. For legal purposes, email has the same standing in court as paper documents; and
- Council records must be managed (destroyed, altered, shared or disposed) in accordance with the Retention and Disposal Authority for Local Government Records designated by the Public Records Office of Victoria.

Access to Council Offices

We acknowledge that we:

- have access to the Council Chamber, Mayor's Office and other public areas of the Council offices during normal business hours; and
- must ensure that when within a staff-only area we avoid giving rise to the appearance that we may improperly influence Council staff decisions.

Elections

Election Period Policy

Council adopts an Election Period Policy in order to ensure that the lead up to the general election or any by-election for the Ararat Rural City Council is conducted in a manner that is fair and equitable, and is publically perceived as such and where Council decisions are as required to meet statutory obligations. We understand that this policy is applicable to Councillors and Council staff.

Councillor Political Activity

We acknowledge that it is a democratic right of Councillors to seek political or other office in pursuit of their personal ambitions. We as Councillors, in pursuit of our goals, will abide by the requirements and provisions of the Act relating to the Oath of Office, Councillor Conduct Principles, misuse of position and overall obligations in the Councillor Code of Conduct. This requires Councillors to act impartially and in the best interests of the community to avoid conflicts between public duty and personal interests, not to obtain a personal advantage for themselves or others and not to misuse public resources.

State or Federal Election Candidates

We understand that Councillors at time nominate for State or Federal elections.

The *Commonwealth Electoral Amendment (Members of Local Government Bodies) Act 2003* provides that any state legislation that discriminates against a councillor on the ground that the councillor has been, or is to be, nominated or declared as a candidate for the House of Representatives or the Senate has no effect.

The following guidelines are to be observed by any person who is nominating or becomes an endorsed candidate for State or Federal elections:-

- The Councillor will advise the Chief Executive Officer in writing, as soon as practicable, who will then advise all Councillors, that the Councillor has become an endorsed candidate;
- The Councillor who is a candidate for State or Federal election should declare this at a meeting of the Council as soon as practicable after the nomination date;
- The same provisions as outlined in the Council's Caretaker Policy will apply in respect to the Councillor who is the nominated candidate; this includes no use of Council resources, including Council equipment - and particularly telephones, mobile phones, logos, letterhead, mail, publications in relation to his/her candidacy;
- A Councillor who is an endorsed candidate should take leave from any Council or representative role;
- The Councillor must not use Council activities, including Council or Advisory Committee meetings and Council-related external activities in relation to his/her candidacy;
- Where a Councillor speaks on Council issues as a candidate in an election, the Councillor should clearly identify this fact;
- The Councillor will seek their own legal advice in respect to these issues.

External Requests for Service

As Councillors, we understand that requests for service is a request made by us or on behalf of a community member. The same service standards will apply to a Councillor request for service, as a request for service from a community member.

All service requests must be directed to the Executive Assistant and entered into Council's customer relationship management system (CRMS) and sent to the appropriate Council department for actioning.

Investigations and actions will be recorded and monitored, and status reports will be provided to the Chief Executive Officer. Councillors will promptly pass on to the Chief Executive Officer any and all correspondence, information, enquiries, requests for information, requests for service, complaints and acknowledgements provided to a Councillor relative to any activity of Council (irrespective of the format or nature of receipt) so these can be acknowledged and actioned by the Organisation in a timely manner.

6 REFERENCES

Internal References

- Council Expenses and Support Policy
- Councillor Gifts, Gratuities and In-Kind Policy
- Councillor Education Policy
- Elections Period Policy 2020
- Fraud and Corruption Control Plan
- Privacy and Data Protection and Health Records Policy
- Public Interest Disclosures Procedure
- Public Transparency Policy
- Social Media Policy

Legislation and Other Resources

- Local Government Act 2020 (Vic)
- Equal Opportunity Act 2010 (Vic)
- Health Records Act 2001
- Occupational Health and Safety Act 2004 (Vic)
- Privacy and Data Protection Act 2014,
- Public Interest Disclosures Act 2012 (Vic)
- Sex Discrimination Act 1984
- Victorian Charter of Human Rights and Responsibilities Act 2006

Councillor Code of Conduct



Ararat Rural City

7 COUNCILLORS COMMITMENT

In adopting this Code of Conduct, we as Councillors commit to representing the local community in a transparent, fair and equitable way.

We confirm that this Code of Conduct goes beyond what is required by the Act to demonstrate our commitment to governing this Council effectively with the highest standards of democratic and corporate governance. We will abide by the Councillor Code of Conduct and uphold the standards of conduct set out in the Councillor Code of Conduct.

The Code of Conduct, like the Act, applies to all Councillors and relates to the performing of Council powers, duties and functions and all the various forms of decision-making processes.

Cr Jo Armstrong

Cr Bob Sanders

Cr Teli Kaur

Cr Peter Joyce

Cr Bill Waterston

Cr Rob Armstrong

Cr Luke Preston

APPENDIX 1 DISPUTE RESOLUTION PROCEDURE

Disputes between Councillors

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

Therefore, having differing views, politics or attitudes from other Councillors is not considered a conflict or a dispute and does not require resolution.

Conflict and/or disputes emerge when the differences between Councillors become personal or the behaviour of Councillors towards each other and/or staff is of a nature that threatens the effective operation of Council's decision-making processes. Disputes may also involve allegations of contraventions of this Code.

A dispute may arise between two individual Councillors, between one Councillor and a group of Councillors or between two or more different groups of Councillors. In this dispute resolution process the Councillor or group of Councillors that are seeking a resolution are referred to as 'the Applicant' and the Councillor or Councillors against whom the application is lodged are entitled 'the Respondent'. The following dispute resolution procedure will apply regardless of the dynamics and numbers involved.

Self-Resolution

Where a dispute and a contravention of the Code arises, the preferred outcome would be for the Applicant and Respondent to have informal discussions in the first instance with a view to resolving any issues without further recourse to this dispute resolution procedure. This may be undertaken informally or alternatively either party may request a discussion with the Mayor acting as a mediator, should the Mayor not be either the Applicant or Respondent. Where either party believes that this step will not achieve a resolution, this step in the dispute resolution process may be by-passed.

Internal arbitration process

In relation to the internal arbitration process the Act and Regulations outline the following process:

Local Government Act 2020

Section 141

Internal arbitration process

- (1) The internal arbitration process applies to any breach of the prescribed standards of conduct.
- (2) The following applies to an internal arbitration process—
 - (a) any processes prescribed by the regulations, including any application process;
 - (b) the arbiter must ensure that parties involved in internal arbitration process are given an opportunity to be heard by the arbiter;
 - (c) the arbiter must ensure that a Councillor who is a party to an internal arbitration process does not have a right to representation unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly;

Councillor Code of Conduct



Ararat Rural City

Local Government (Governance and Integrity) Regulations 2020

- (1) For the purposes of section 141(2)(a) of the Act, the prescribed processes are that—
 - (a) an application for an internal arbitration process specifies—
 - (i) the name of the Councillor alleged to have breached the standards of conduct; and
 - (ii) the clause of the standards of conduct that the Councillor is alleged to have breached; and
 - (iii) the misconduct that the Councillor is alleged to have engaged in that resulted in the breach; and
 - (b) after receiving an application under section 143 of the Act, the Councillor Conduct Officer provides the application to the Councillor who is the subject of the application.
- (2) For the purposes of section 141(2)(d) of the Act, an arbiter appointed to hear a matter subject to an application under section 143 must—
 - (a) conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and
 - (b) ensure that the hearing is not open to the public.
- (3) Subject to subregulation (2), an arbiter—
 - (a) may hear each party to the matter in person or solely by written or electronic means of communication; and
 - (b) is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit; and
 - (c) may at any time discontinue the hearing if the arbiter considers that—
 - (i) the application is vexatious, misconceived, frivolous or lacking in substance; or
 - (ii) the applicant has not responded, or has responded inadequately, to a request for further information.

APPENDIX 2 PUBLIC INTEREST DISCLOSURES

Public Interest Disclosures

Council has established a system for reporting disclosures of improper conduct or detrimental action by Council or its staff members. Council's Public Interest Disclosure Coordinator (PIDC) is responsible for assessing if disclosures made to Council are assessable disclosures.

The Public Interest Disclosures Act 2012 only allows certain people and entities to receive disclosures and their ability to receive disclosures depends upon whom the disclosure is made about. As such, Council can only receive disclosures about Council and its staff.

If Council receives a public interest disclosure concerning another public body, the Council will notify the disclosure to IBAC for assessment as a public interest complaint and the protections under the Public Interest Disclosures Act 2012 will apply.

If in doubt, a disclosure should be made to IBAC, unless the disclosure is about IBAC or one of its officers, in which case it should be made to the Victorian Inspectorate.

If your disclosure concerns Council, or one of its staff members, you may make your disclosure to either the Chief Executive Officer, the PIDC (Governance and Administration Coordinator) or directly to IBAC.

Please refer to the Public Interest Disclosures Procedure for further information.