

 <b>Councillor Code of Conduct</b> Ararat Rural City	Document No:	C.1.6
	Review Date:	January 2017
	Last Reviewed:	May 2016
	Next Review Due:	January 2021
	Revision No:	7
Responsible Officer:	Chief Executive Officer	
Approved By:	Council (adopted 19/01/2017)	
Related Documents:	See references below	

### 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 and equitable way.

This Councillor Code of Conduct (**Code**) goes beyond what is required by the *Local Government Act 1989 (Act)* as our commitment to governing this Council effectively with the highest standards of 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 is supported by the principles of the *2013-2017 Council Plan (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.

Our main focus areas in the Council Plan are Council's four pillars of "Our Community", "Our Lifestyle", "Our Economy", "Our Environment" and the foundation of "Our Organisation".

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.

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## **1. Introduction**

The values that underpin this Code incorporate respect and consideration of fellow Councillors, staff and the community. We will communicate openly and honestly with an appreciation of the professional views, abilities and the unique contributions each of us make towards the effective governance of the Council.

## **2. Conduct of Councillors**

### **2.1 Primary Principle of Councillor Conduct**

It is a primary principle of Councillor Conduct that, in performing the role of a Councillor, a Councillor must comply with section 76B of the Act, which states that a Councillor must:

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

### **2.2 General Councillor Conduct Principles**

In addition to acting in accordance with the primary principle of Councillor Conduct specified, in performing the role of a Councillor, a Councillor must comply with section 76BA of the Act, which states that a Councillor must:

- avoid conflicts between his or her public duties as a Councillor and his or her 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 officers and other persons
- exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her 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 him or her 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

## **3. Councillors' Behaviours**

We confirm that we will adhere to the following principles of behaviour in our general conduct as Councillors - treating all people with courtesy and respect, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. This includes:

- treating members of the community with dignity and ensuring that neither offence nor embarrassment are caused
- treating fellow Councillors with respect, even when disagreeing with their views or decisions
- debating contentious issues without resorting to personal acrimony or insult
- ensuring their punctual attendance at Council and committee meetings; and
- acting with courtesy towards Council staff

In defining courtesy and respect, Council believes in the following principles:

- being honest
- active listening to each other and making sure we understand the basis of another person's views
- being careful about the tone we use to ensure that we are not conveying disrespect through our tone
- setting examples to each other and the community by our behaviour
- using self-reflection to monitor ourselves
- seeking feedback from each other
- being punctual and making the meeting or presentation we are at the priority when it comes to going outside to take or make telephone calls, including ensuring that electronic devices are placed on silent at all meetings
- be open and transparent

We will always act with integrity and honesty by:

- being honest in all dealings with the community, with other Councillors and with Council staff
- always acting with impartiality and in the best interests of the community as a whole
- not acting in ways that may damage the Council or its ability to exercise good government
- exercising reasonable care and diligence in performing our functions as Councillors
- complying with all federal, state and local relevant laws

Recognising that we hold a position of trust which we will not misuse or derive undue benefit from our positions:

- we will comply with the relevant provisions of the Act and this Code relating to interests and conflicts of interest
- we will not exercise undue influence on other Councillors, members of Council staff, contractors or members of the public to gain or attempt to gain an advantage for ourselves or others

Recognising the increased use and reliance on electronic devices, we believe in the following principles:

- when using electronic media we will mark items as confidential when dealing with Council business items where the matter is of a nature that is sensitive and/or business related that requires discussion between Councillors
- items that are dealt with at an Assembly of Councillors are not to be discussed with anyone outside of this meeting to ensure good governance is upheld and the ability to debate in an open and frank manner is preserved
- we will be mindful of the target audience when replying and/or sending emails
- the tone used in electronic media will be respectful
- we will adhere to Council's policies dealing with electronic media
- to recognise and support each other's wellbeing, Councillors are not expected to reply to emails on a weekend and/or nights unless urgent
- our electronic communication will be concise, timely and transparent

#### **4. Councillors Meeting Etiquette**

Councillors should familiarise themselves with Council's Meeting Procedure Local Law (2012) (Local Law).

As an elected Council we believe that we should exhibit the highest standards possible when attending, chairing, and participating in meetings as a Council. As such the following principles are essential to reinforce this commitment, in particular the following:

- the Chairperson will control the meeting/Assembly of Councillors and/or presentations at all times
- all Councillors will need to be punctual at these meetings to ensure they start at the advertised or scheduled time
- Councillors will ensure they have prepared for any meeting/Assembly of Councillors and/or presentations by reading the relevant material at all times
- to ensure the welfare of all Councillors, adequate breaks will be placed in an agenda for meetings that go beyond 1½ hours
- so all Councillors have an opportunity to raise issues and debate an issue, the Chairperson will ensure that, at any time, only one person addresses the meeting (this includes not allowing interjecting by the gallery)
- if the Chairperson believes the debate/conversation/a comment has run its course they may ask the Councillor to conclude
- Councillors will ensure that they comply with the Act and the Local Law for required meeting attendance and will endeavour, unless there are unavoidable circumstances, to attend all required meetings including but not limited to ordinary and special Council meetings, Assemblies of Councillors, briefings by staff and guests
- Councillors wishing to speak at a meeting will do so by indicating with their hand
- Councillors will ensure that where they are attending and/or participating at official functions/meetings that they will wear appropriate business attire

#### **5. Communication**

As an elected Council, we endeavour to ensure that the messages communicated through the media are clear and consistent and positively portray the Council as a decisive and responsible governing body.

The Mayor will provide official comment to the media on behalf of Council.

The CEO is the official spokesperson for all operational matters pertaining to Council as an organisation including:

- staffing and structure of the organisation
- corporate issues relating to service provision or the day-to-day business of the Council

The CEO may delegate authority to a Council officer if appropriate.

As individual Councillors, we are entitled to express our own independent views through the media, however we will make it clear that any unofficial comment is our own personal view and does not represent the position of the Council as whole.

Following a decision of Council, a Councillor may make comment but not to the detriment of the Council decision and/or a personal attack on the process and/or another Councillor.

## **6. 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:

- we will actively and openly participate in the decision making process, striving to be informed to achieve the best outcome for the community
- we will respect the views of the individual in the debate, however we also accept that decisions are based on a majority vote
- we accept that no Councillor can direct another Councillor on how to vote on any decision

## **7. Relationships with Staff**

As detailed in section 94A of the Act, the CEO is responsible for the staff of Council which includes appointing, directing and dismissing staff. Councillors have no right to individually direct staff to carry out particular functions. Councillors will not involve themselves in any personnel matter relating to staff, except the CEO. The information provided to one Councillor should be equally available to other Councillors and no treatment that is unequal should be sought from any staff member.

As effective Councillors we will work cooperatively with the CEO and other members of staff. We recognise the division of responsibilities and that the role of Councillors is one of advocacy and leadership and that the CEO is responsible for management and administration. Therefore as Councillors, we will be aware of the requirements of section 76E of the Act and must not seek to improperly direct or influence members of Council staff in the exercise of their duties. It is appropriate to notify either the relevant Director 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 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 well-being of all Councillors and 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 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 CEO and Directors and that this is the advice on which Councillors are entitled to rely.

We will comply with the Councillor/Council staff code of conduct policy required to be implemented by the CEO under section 94A (3A) of the Act.

## **8. Dispute Resolution Procedures and Complaints**

### **8.1 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.

Council's dispute resolution process comprises four components. They are:

- self-resolution (optional)
- formal request for remedy of the dispute or contravention
- external arbitration
- request for a Councillor Conduct Panel to be established to determine alleged misconduct or serious misconduct

Councillors will seek to resolve disputes or deal with alleged contraventions of the Code in-house if at all possible.

### **8.2 Self Resolution (Optional)**

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.

### **8.3 Formal Request for Remedy of Contravention**

The Applicant will provide written details of the alleged contravention of the Code and the remedy sought, to the Mayor for formal consideration. Where this occurs the Mayor will

interview the Respondent and if they feel necessary, mediate a meeting between both parties. If an investigation of an alleged contravention of the Code is required, the Mayor may request assistance from the CEO.

Following interviews and/or mediation and investigations, if the Mayor believes that a contravention of the Code has occurred, he or she will formally write to the Respondent requesting actions from the Respondent that remedy the contravention and provide a time-frame in which the remedy should be implemented.

In the event that the Mayor is either the Applicant or Respondent, a Councillor appointed by the Council shall perform the role of the Mayor for this purpose.

#### **8.4 External arbitration**

In the event that the contravention of the Code is not remedied within the timeframe established, or where the Respondent does not accept that a contravention of the Code has occurred, either the Applicant or Respondent may request the engagement of an arbiter by lodging an application in writing with the Principal Conduct Officer (PCO).

Council will utilise the MAV panel of arbiters for this purpose. The Applicant and Respondent may both indicate their preferred arbiter however the ultimate decision on the arbiter will rest with the PCO based on the availability of the arbiters and any other circumstances deemed relevant by the PCO.

The arbiter must be suitably independent and able to carry out the role of the arbiter fairly.

The role of the arbiter is to:

- consider the complaint
- ensure that the parties to the complaint are given an opportunity to be heard by the arbiter
- explore if the complaint can be resolved between the parties without making any findings
- make any findings in relation to the complaint which the arbiter must give, together with written reasons for any findings, to Council and to each party to the complaint

If an arbiter is appointed, all parties to the complaint shall provide reasonable assistance to the arbiter, as requested.

### **9. Councillors' Commitment**

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

We confirm that this Code 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.

The Code, 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.