



# **COUNCILLOR CODE OF CONDUCT 2009**

**This Code, which incorporates the statutory requirements specified for a Councillor Code of Conduct in accordance with section 76C of the *Local Government Act 1989*, was approved by resolution of Darebin City Council on 16 November 2009**

## COUNCILLOR CODE OF CONDUCT

### 1. Introduction

As Councillors of the Darebin City Council we are committed to working together in the best interests of the people in our municipality and to discharging our responsibilities to the best of our skill and judgment.

Our commitment to working together constructively will enable us to achieve the promise we made in the 2009-2013 Council Plan

*As a democratic and accountable local government, we will strive in all that we do to achieve fairness through innovative and progressive leadership that respects and reflects our diverse community*

in a manner that is consistent with our organisational values of *respect, collaboration and accountability*.

The primary role of the Council is to provide leadership for the good governance of the Darebin municipal district and the local community. This role of the Council includes:

- 1.1. Acting as a representative government by taking into account the diverse needs of the local community in decision making;
- 1.2. Providing leadership by establishing strategic objectives and monitoring their achievement;
- 1.3. Maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;
- 1.4. Advocating the interests of the local community to other communities and governments;
- 1.5. Acting as a responsible partner in government by taking into account the needs of other communities; and
- 1.6. Fostering community cohesion and encouraging active participation in civic life.

### 2. Councillor Conduct Principles

We endorse and agree to the following Councillor Conduct Principles specified in sections 76B and 76BA of the Local Government Act 1989 (the Act):

- 2.1. In carrying out our role as Councillors, we will:
  - 2.1.1. Act with integrity; and
  - 2.1.2. Impartially exercise our responsibilities in the interests of the local community; and
  - 2.1.3. Not improperly seek to confer an advantage or disadvantage on any person.
- 2.2. In addition, in performing our role as Councillors we will:
  - 2.2.1. Avoid conflicts between our public duties as a Councillor and our personal interests and obligations;

- 2.2.2. Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- 2.2.3. Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
- 2.2.4. Exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;
- 2.2.5. Endeavour to ensure that public resources are used prudently and solely in the public interest;
- 2.2.6. Act lawfully and in accordance with the trust placed in us as an elected representative;
- 2.2.7. 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. Councillor Behaviours

We confirm that we will adhere to the following principles of behaviour in our general conduct as Councillors:

- 3.1. Treating all people with **courtesy and respect**, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. This includes:
  - 3.1.1. Treating members of the community with dignity and ensuring that neither offence nor embarrassment are caused
  - 3.1.2. Treating other Councillors with respect, even when disagreeing with their views or decisions
  - 3.1.3. Debating contentious issues without resorting to personal acrimony or insult
  - 3.1.4. Ensuring punctual attendance at Council and committee meetings
  - 3.1.5. Acting with courtesy towards Council staff and avoiding intimidatory behaviour.
  - 3.1.6. Supporting the Mayor of the day in the performance of his/her duties.
- 3.2. Always acting with **integrity and honesty**:
  - 3.2.1. Being honest in all dealings with the community, with other Councillors and with Council staff
  - 3.2.2. Always acting with impartiality and in the best interests of the community as a whole
  - 3.2.3. Not acting in ways that may damage the Council or its ability to exercise good government
  - 3.2.4. Exercising reasonable care and diligence in performing their functions as Councillors
  - 3.2.5. Complying with all relevant laws, be they Federal, State or Local Laws.

- 3.3. Recognising that we hold a **position of trust** we will not misuse our position:
- 3.3.1. To gain, or attempt to gain, directly or indirectly, an advantage for ourselves or for any other person; or
  - 3.3.2. To cause, or attempt to cause, detriment to the Council or another person.

#### **4. Council Decision Making**

- 4.1. 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:
- 4.1.1. We will maximise our attendance at Council and committee meetings and Councillor briefing sessions and will actively and openly participate in the decision making process, striving to be informed to achieve the best outcome for the community.
  - 4.1.2. We will be consistent in our decision making and consider each matter on its merits.
  - 4.1.3. We will respect the views of individuals in the debate but accept that decisions are based on a majority vote.
  - 4.1.4. We accept that no Councillor can direct another Councillor on how to vote on any decision.
- 4.2 We will observe the provisions of *City of Darebin Governance Local law 2007* which regulates proceedings at meetings of the Council and its committees.

#### **5. Confidential Information**

We acknowledge and will comply with our obligations under section 77 of the Act in relation to 'confidential information' (as defined in the Act) and recognise that this obligation extends to ensuring the safekeeping of confidential information.

#### **6. Access to and use of Council Information**

- 6.1. We will treat Council information appropriately by:
- 6.1.1. Not using information gained by virtue of our position as a Councillor for any purpose than to exercise our role as a Councillor;
  - 6.1.2. Respecting the Council's policies in relation to public comments and communications with the media (refer to section 10);
  - 6.1.3. Not releasing information deemed 'confidential information' in accordance with section 77 of the Act (refer to section 5); and
  - 6.1.4. Recognising the requirements of the *Information Privacy Act 2000* regarding the access, use and release of personal information.
- 6.2. We acknowledge that Councillors are only entitled as of right to access information which is relevant to a matter before, or likely to come before, the Council or a committee of the Council for consideration. Councillors seeking information or explanation or wishing to provide feedback on any matter will do so in accordance with agreed Councillor/Staff contact protocols (refer to section 8).

## 7. Use of Council Resources

- 7.1. Council resources (including funds and property) are to be used effectively and economically. Accordingly:
  - 7.1.1. We will maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role.
  - 7.1.2. We will not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments/reimbursements are made where appropriate.
  - 7.1.3. We will not use public funds or resources in a manner that is improper or unauthorised.
- 7.2. We will abide by the *City of Darebin Councillor Support and Expenses Policy 2009*.

## 8. Relationships with Staff

- 8.1. As Councillors we will work as part of the Council team with the Chief Executive Officer and other members of staff.
  - 8.1.1. There must be mutual respect and understanding between Councillors and officers in relation to their respective roles, functions and responsibilities.
  - 8.1.2. Our role is one of advocacy and leadership rather than management and administration. The Chief Executive Officer is responsible for all staff matters.
  - 8.1.3. We will comply with the requirements of section 76E of Local Government Act 1989 whereby Councillors must not seek to improperly direct or influence members of Council staff in the exercise of their duties.
- 8.2. We acknowledge that the Chief Executive Officer has provided guidelines for Councillor contact and information exchange with Council staff at various levels as follows:
  - 8.2.1. In relation to **strategic and service issues and information**, Councillors are expected to contact the relevant General Manager or the relevant Service Manager/Coordinator as listed in the 'City of Darebin – the Organisation' publication, or equivalent publication provided to Councillors. The publication will be updated annually and where there is a significant alteration to the Organisation structure.
  - 8.2.2. In relation to **council reports, committee reports and briefing papers**, Councillors are expected to clarify matters being reported or presented to Council/Committee meetings or Councillor Briefing Sessions directly with the relevant General Manager and/or the Author/Presenter of the report.
  - 8.2.3. It is acknowledged that Councillors will have some contact with other Council officers at an **operational level** including customer requests for service, Councillor support and Councillor facilities.
  - 8.2.4. If a Councillor is unclear about the relevant officer to contact on any matter, they should seek assistance from the Chief Executive Officer, any General Manager or the Manager Customer and Civic Services.

## 9. Gifts

- 9.1. We will not accept gifts either in our role as Councillor or where it could be perceived to influence us in our role as a Councillor except:
  - 9.1.1. Where the gift would generally be regarded as only having a token value and could not be perceived to influence our actions as a Councillor.
  - 9.1.2. Where refusal may cause offence or embarrassment, in which case we will accept the gift on behalf of the Council and the gift becomes the property of the Council.
- 9.2. We will comply with the requirements of sections 62, 78C, 79, 80A and 81 of the Act for Councillors:
  - 9.2.1. To lodge (as candidates for election) a return of election campaign donations to the value of \$200 or more received in the four year period leading up to the election;
  - 9.2.2. To disclose conflicts of interest which arise by receipt of an 'applicable gift' as defined in the Act; and
  - 9.2.3. To lodge returns of their interests twice each year including disclosing gifts (including election campaign donations) of \$200 or more received during the return period.

## 10. Communication

- 10.1. As representatives of the community, we have a primary responsibility to be responsive to community views and to adequately communicate the attitudes and decisions of Council.
- 10.2. We will 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 through our media communication processes and protocols:
  - 10.2.1. The Mayor is the primary spokesperson for Council media releases. The Mayor may nominate another Councillor, the Chief Executive Officer or the relevant General Manager as spokesperson where appropriate.
  - 10.2.2. The Mayor hosts a meeting with local press weekly. The Manager Communications and Public Affairs and other Council staff (as required) support the Mayor at the meeting.
  - 10.2.3. Media enquiries are generally received through the Communications Branch and are responded to by the Chief Executive Officer or other authorised officers. Where Councillors are contacted directly by the media they can respond directly or seek support from the Chief Executive Officer, General Managers or the Communications Branch.
- 10.3. As individual Councillors we are entitled to express independent views through the media, however we will make it clear that any unofficial comment is a personal view, and does not represent the position of the Council as a whole.

## 11. Conflict of Interest Procedures

The Council is committed to making all decisions impartially and in the best interests of the whole community. It therefore recognises the importance of fully observing the requirements of the Act in regard to the disclosure of conflicts of interest.

For the purpose of this Code, 'direct interest', 'indirect interest' and 'conflict of interest', have the meanings specified in the Act.

We will comply with all the provisions of the Act in regard to conflicts of interest:

- 11.1. If a Councillor considers that he/she has a direct or indirect interest in a matter before the Council, a special or Audit committee of Council or an assembly of Councillors, the Councillor has a conflict of interest in the matter.
- 11.2. If a Councillor has a conflict of interest in a matter before the Council, a special or Audit committee (of which he/she is a member), he/she will comply with the requirements of the Act by disclosing the type and nature of the interest and leaving the room in which the meeting is being held while the matter is being considered or any vote is taken in relation to the matter.
- 11.3. If a Councillor has a personal interest in a matter to be considered by the Council a special committee or the Audit Committee that is not a conflict of interest, and the Councillor considers that their personal interest may be in conflict with their public duty to act impartially and in the interest of the whole community, the Councillor will declare a conflicting personal interest under section 79B of the Act immediately before the matter is considered at the relevant meeting and apply to the Council or Committee to be exempted from voting on the matter.
- 11.4. If a Councillor has a conflict of interest in a matter being considered at an assembly of Councillors (as defined in the Act) he/she will comply with the requirements of the Act by disclosing the conflict of interest and leaving the assembly while the matter is being considered.

In addition to the requirements of the Act:

- 11.5. We will give early consideration to each matter to be considered by the Council, any special or Audit committee (of which we are a member) or an assembly of Councillors, to ascertain if we have a conflict of interest.
- 11.6. We recognise that the legal onus to determine whether a conflict of interest exists rests entirely with each individual Councillor even if a Council officer or other persons offer any advice in relation to potential conflicts.
- 11.7. If we consider that we may be unable to vote on a matter because of a conflict of interest, we will notify, as soon as possible, the Mayor or the Committee Chairperson and the Chief Executive Officer.
- 11.8. If we have a conflict of interest in a matter to be considered at a meeting of the Council or a special or Audit committee (of which we are a member) and we will not be attending the meeting, we will make a full disclosure of that interest to the Chief Executive Officer or Chairperson of the meeting in writing before the meeting.

## **12. Dispute Resolution Procedures**

- 12.1. This dispute resolution procedure is intended to be used in the event of any dispute where Councillors are unable to resolve interpersonal conflicts that adversely affect the operation of the Council or where 'misconduct' as defined in the Act is alleged. The procedure is not intended to resolve differences in policy or decision making, which are appropriately resolved through debate and voting in Council and Committee meetings
- 12.2. Before commencing any formal dispute resolution process, the Councillors who are parties to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community. The Mayor, as leader of the Council, should be invited by either party to facilitate discussions between the parties.
- 12.3. If the parties to the dispute are unable to resolve the dispute within 14 days, they agree to the appointment of a mediator nominated by the Chief Executive Officer and acceptable to both parties, or failing agreement, nominated by the President of the Municipal Association of Victoria and appointed by the Chief Executive Officer.
- 12.4. If a mediator is appointed, all Councillors agree to cooperate with the dispute resolution process and use their best endeavours to assist the mediator when requested.
- 12.5. If the issue relates to alleged 'misconduct' and the dispute cannot be resolved through application of these dispute resolution processes, it may be referred to a Councillor Conduct Panel.

## **13. Review**

This policy will be reviewed within 12 months of each general election unless the Council determines that an earlier review is required.