



# COUNCILLOR CODE OF CONDUCT 2013

**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 2 December 2013**

# COUNCILLOR CODE OF CONDUCT

## 1. Introduction

- 1.1. 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.
- 1.2. Our primary role as the elected Council is to provide leadership for the good governance of the Darebin municipal district and the local community. This role includes:
  - 1.2.1. acting as a representative government by taking into account the diverse needs of the local community in decision making;
  - 1.2.2. providing leadership by establishing strategic objectives and monitoring their achievement;
  - 1.2.3. maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;
  - 1.2.4. advocating the interests of the local community to other communities and governments;
  - 1.2.5. acting as a responsible partner in government by taking into account the needs of other communities; and
  - 1.2.6. fostering community cohesion and encouraging active participation in civic life.

## 2. Councillor Conduct Principles

- 2.1. We endorse and agree to the following Councillor Conduct Principles specified in sections 76B and 76BA of the Local Government Act 1989 (the Act):
- 2.2. In carrying out our role as Councillors, we will:
  - 2.2.1. act with integrity;
  - 2.2.2. impartially exercise our responsibilities in the interests of the local community; and
  - 2.2.3. not improperly seek to confer an advantage or disadvantage on any person.
- 2.3. In addition, in performing our role as Councillors we will:
  - 2.3.1. avoid conflicts between our public duties as Councillors and our personal interests and obligations;
  - 2.3.2. act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
  - 2.3.3. treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
  - 2.3.4. exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;

- 2.3.5. endeavour to ensure that public resources are used prudently and solely in the public interest;
- 2.3.6. act lawfully and in accordance with the trust placed in us as elected representatives; and
- 2.3.7. 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 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 making every effort to ensure 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; and
  - 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 our functions as Councillors; and
  - 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 to:
  - 3.3.1. gain, or attempt to gain, directly or indirectly, an advantage for ourselves or for any other person; or
  - 3.3.2. cause, or attempt to cause, detriment to the Council or another person.

### 4. Council Decision Making

- 4.1. We acknowledge that effective decision making is vital to the democratic process and an essential component of good governance. Accordingly, we commit to the following standards:

- 4.1.1. decisions will, as far as possible, be made in the interests of the entire community and not to serve private or sectional interests;
  - 4.1.2. decision making will be impartial, guided by the rules of natural justice and devoid of bias, taking account of the views of affected parties;
  - 4.1.3. decisions will be made in a transparent manner, avoiding unnecessary confidentiality and ensuring complete and accurate documentation is available to the public;
  - 4.1.4. decision making processes will be respectful of fellow Councillors, Council staff and other people, recognising that differences of opinion are an essential part of democratic government; and
  - 4.1.5. decisions will be made without undue influence or pressure on fellow Councillors or Council staff.
- 4.2. In order to support effective decision making, we individually commit to:
- 4.2.1. maximising our attendance at all Council and committee meetings and Councillor briefings;
  - 4.2.2. carefully considering information and advice provided to assist with decision making;
  - 4.2.3. actively participate in the decision making process; and
  - 4.2.4. chairing and/or working with Council's advisory Committees.
- 4.3. We will observe the provisions of the City of Darebin Governance Local Law 2013 which regulates proceedings at meetings of the Council and its committees.

## 5. Conflicts of Interest

- 5.1. Recognising that our decisions must be made solely in the public interest, we will be vigilant in ensuring a clear separation between our public and private interests, including:
- 5.1.1. fully complying with the requirements to disclose all conflicts of interest in Council meetings, committee meetings, Councillor briefings and other assemblies of Councillors;
  - 5.1.2. avoiding situations that may give rise to real or perceived conflicts of interest, such as accepting gifts or favours from people with interests in matters to be considered by Council;
  - 5.1.3. recognising that it remains our individual responsibility before the law to identify our conflicts of interest and to take the proper action once those conflicts of interest are identified, even when we have sought advice from another person; and
  - 5.1.4. taking careful note of forthcoming matters for Council consideration, identifying situations where conflicts of interest may arise and giving early notice of such conflicts to the Mayor/chairperson and the Chief Executive Officer (**CEO**).
- 5.2. We recognise that most Councillors will encounter potential conflict of interest situations from time to time and that a wrong only exists when the interest is not properly disclosed. We will support each other in this process and not falsely allege conflicts of interest in an effort to prevent Councillors from participating in decision making.

- 5.3. We recognise that it is for each Councillor to identify and assess any potential conflict of interest that might arise and that a Councillor cannot be directed by the Council, Councillors or Council staff in that assessment or to make a disclosure in accordance with section 79 of the Act.

## **6. Council information**

- 6.1. We recognise that information in the possession of the Council, or provided to us to assist with decision making, must be managed with care and not used unlawfully or for personal benefit. We specifically commit to:
- 6.1.1. not releasing information that is confidential for the purposes of section 77 of the Act;
  - 6.1.2. not misusing the confidentiality provisions of the Act as a means of improperly withholding information from the public;
  - 6.1.3. maintaining the security of information that is “personal information” for the purposes of the Information Privacy Act 2000; and
  - 6.1.4. not seeking access to information for any private purpose and never requesting access to information on a matter in respect of which we have a conflict of interest.
- 6.2. If information is required to perform our responsibilities as Councillors we will seek that information in accordance with procedures established by the CEO, recognising that access may be limited if:
- 6.2.1. significant resources would be required to access the information and Council has not resolved to allocate resources for that purpose; or
  - 6.2.2. the information is private or confidential to another person and the information is not demonstrably required for an official purpose.

## **7. Relationships with Staff**

- 7.1. We recognise that an effective Council is one that works as a team and that it is essential to maintain positive working relationships with the CEO and Council staff. We commit to:
- 7.1.1. treating all staff with courtesy and respect;
  - 7.1.2. never engaging in bullying or intimidatory behaviour;
  - 7.1.3. avoiding negative comments about Council staff in public; and
  - 7.1.4. encouraging a culture of frank and fearless advice.
- 7.2. We recognise that our role as Councillors is to set the strategic direction and policy framework for the Council and that it is the responsibility of the CEO and Council staff to undertake the day to day operations of the Council and to give effect to the Council's decisions. We will not:
- 7.2.1. seek to direct the operations of the Council, individually or collectively, other than through decision making in properly constituted Council and special committee meetings;
  - 7.2.2. engage with Council staff in any way that may give the impression of seeking to improperly influence or direct them in the performance of their duties, specifically avoiding any actual or perceived direction of staff:
    - 7.2.2.1. in regard to advice being provided to Council or a committee;

- 7.2.2.2. in the exercise of any delegated power, duty or function; or
- 7.2.2.3. in the exercise of a duty or function as an authorised officer or other statutory position; and
- 7.2.3. approach Council staff on Council matters, except in accordance with procedures approved by the CEO, and never approach non-executive staff on Council matters outside normal business hours.
- 7.3. In regard to the employment of staff, we recognise that:
  - 7.3.1. our responsibilities for the employment of the CEO must be undertaken with due propriety and that the CEO's annual performance review must be conducted in a fair and unbiased manner; and
  - 7.3.2. all other staffing matters fall within the lawful responsibility of the CEO and we will not seek to interfere in the appointment, management or dismissal of members of staff or discuss such matters with members of staff or others.

## **8. Councillor And Staff Interaction Protocols**

- 8.1. We will adhere to the following Protocols which apply whenever a Councillor and Council staff member interact. They cover both:
  - 8.1.1. requests for information on strategic and service issues; and
  - 8.1.2. discussions or other communications (including verbal discussions, emails and SMS communications) that take place outside a formal meeting (eg where a Councillor approaches a staff member for clarification in relation to a report) and involve an issue affecting Council.
- 8.2. Central Concept In All Interaction
  - 8.2.1. Respect
    - 8.2.1.1. The Councillor and member of Council staff will in all interactions treat each other respectfully. The respect should help build and maintain a constructive relationship between Councillors and Council staff.
    - 8.2.1.2. The Councillor will, in accordance with section 76E(1) of the Local Government Act 1989, refrain from improperly directing or improperly influencing, or seeking to improperly direct or improperly influence, the member of Council staff.
    - 8.2.1.3. The Council staff member will, in accordance with the Excellence in Governance Employee Code of Conduct, maintain the integrity of the decision making process.
    - 8.2.1.4. Any interaction between Councillors and Council staff should be restricted to those interactions required to further matters of Council business following the normal course of Council operating procedures and processes. Where social interaction occurs between Councillors and Council staff, any discussion of Council business and/or operational matters is prohibited.
- 8.3. Requests For Information
  - 8.3.1. Reasonableness of Request
    - 8.3.1.1. The Councillor's request for information must be reasonable in the circumstances.

- 8.3.1.2. It must not, for example, impose an unreasonable burden on the member of Council staff or set an unrealistic or impracticable deadline for a response.
  - 8.3.1.3. The Councillor must, in the first instance, request information from the relevant Director and cc. the Chief Executive into any such requests. Information requests will then be redirected to the relevant Director for appropriate action.
  - 8.3.1.4. The request should not be designed to embarrass the member of Council staff or put him or her in a difficult position. If the Councillor intends to make public the information sought, this must be communicated to the staff member prior to disclosure to the public.
- 8.3.2. Responsiveness
- 8.3.2.1. The member of Council staff must, in respect of any request for information which is reasonable in the circumstances, endeavour to provide the information sought in a considered, responsive and timely way.
- 8.3.3. Transfer of Request
- 8.3.3.1. If the Director considers that the request for information can or should more appropriately be dealt with by a staff member, the Director may transfer the request to the appropriate staff member.
  - 8.3.3.2. In that event, the Director who has transferred the request must inform the Councillor that the request has been transferred and advise of the name of the staff member now processing the request.
- 8.3.4. Copying Response
- 8.3.4.1. Unless the member of Council staff considers that it is inappropriate to do so, he or she will copy any written communication to or from the Councillor to all other Councillors.
  - 8.3.4.2. The member of Council staff must also copy the written communication to or from the Councillor to their Director. If he or she considers that the contents of the communication should be brought to the attention of the Chief Executive, the Chief Executive must be copied into the response.
  - 8.3.4.3. If the written communication is copied under 8.3.4.1 and/or 8.3.4.2 of these Protocols, the Councillor will be advised by being copied into the email (or other communication).
- 8.3.5. Reacting to the Response
- 8.3.5.1. The member of Council staff's role is to provide the information which has been requested.
  - 8.3.5.2. The Councillor should not, therefore, debate or attempt to debate any aspect of the information, or anything arising out of the information with the staff member.
  - 8.3.5.3. If the Councillor feels the information is inadequate or inappropriate, they may take this up with the Chief Executive Officer or the relevant Director.

## 8.4. Other Interaction

### 8.4.1. Recording of Discussion or Other Communication

- 8.4.1.1. Any other communication, including emails, text messages and oral discussions between Councillors and Council staff, must be recorded by the Council staff member on the "File Note" and referred to the relevant Director for endorsement and filing by the Director within one working day of the communication occurring.
- 8.4.1.2. Where the communication is between a Councillor and Director, the Director must record, where necessary, the request or discussion on the "File Note".
- 8.4.1.3. The Chief Executive and Manager Corporate Governance and Performance are exempt from recording every discussion with Councillors however the exemption does not apply in relation to the recording of discussions that are of a confidential nature.
- 8.4.1.4. The Manager Communications and Marketing is exempt from recording discussions in relation to Councils media policy and strategic communications.

## 8.5. Compliance

### 8.5.1. Complaints

- 8.5.1.1. If a Councillor or the member of Council staff considers that either has breached any of these Protocols, he or she:
  - (a) may immediately terminate the interaction with the Councillor or Council staff member;
  - (b) must report, in relation to a Councillor, what has occurred to the Chief Executive who must inform the Councillor of the nature of the complaint; or
  - (c) must report, in relation to a member of Council staff, to the Chief Executive the nature of the complaint.
- 8.5.1.2. The Chief Executive or a person chosen by the Chief Executive for the purpose who is independent of the parties must, if it is practicable to do so, encourage the Councillor and member of Council staff to attend a mediation. If held, the mediation and everything said or done with respect to the mediation must be kept confidential by the Chief Executive, Councillor and member of Council staff.
- 8.5.1.3. If it is not practicable to encourage the parties to attend a mediation or:
  - (a) encouragement is given but the mediation does not take place; or
  - (b) the mediation takes place but the Councillor or member of Council staff still feels aggrieved by the interaction which occurred



the Chief Executive may progress the handling of the complaint in the manner set out in paragraphs 8.5.2 and 8.5.3.

- 8.5.2. The Chief Executive may engage a person chosen for the purpose who is independent of the parties to investigate the complaint. In that event:
  - 8.5.2.1. the investigation must be carried out fairly and sensitively;
  - 8.5.2.2. the Councillor and member of Council staff must provide the person with reasonable assistance in the carrying out of his or her investigation; and
  - 8.5.2.3. the Councillor, member of Council staff and, subject to paragraph 8.5.3, Chief Executive, must keep confidential the investigation and any report from the person during or at the conclusion of the investigation.
- 8.5.3. Upon receiving a response from the person at the conclusion of the investigation, the Chief Executive must:
  - 8.5.3.1. in the case of a complaint against a member of Council staff, consider what, if any, disciplinary action should be taken against the member of Council staff; or
  - 8.5.3.2. in the case of a complaint against a Councillor, designate the report as confidential in accordance with section 77(2)(c) of the *Local Government Act 1989*, and submit a copy of the report to a closed meeting of Council so that Council can consider what, if any, action should be taken against the Councillor.

## **9. Use of Council Resources**

- 9.1. Council resources (including funds and property) are to be used solely for public purposes. Accordingly, we will:
  - 9.1.1. not use public funds or resources in a manner that is improper or unauthorised;
  - 9.1.2. not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and we reimburse Council where appropriate;
  - 9.1.3. maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role; and
  - 9.1.4. only seek reimbursement of our personal expenditure where that expenditure is a reasonable and bona fide out-of-pocket expense incurred while performing our duties as a Councillor.
- 9.2. We will abide by the City of Darebin Councillor Support and Expenses Policy 2009 and continue to support the public disclosure of reimbursements of Councillor expenses in accordance with that policy.
- 9.3. Recognising that legal authority for the allocation of Council resources is vested in the Council as a body, we will not individually promise or otherwise commit Council resources to any purpose that has not been duly authorised by resolution of the Council or by a member of Council staff with the appropriate delegated authority.

## 10. Gifts

10.1. We will comply with the City of Darebin *Gifts and Hospitality Policy 2014* by:

- 10.1.1. not accepting any gift in the form of cash money;
- 10.1.2. not accepting any gifts in our role as a Councillor except where refusal may cause embarrassment, in which case we will accept the gift on behalf of the Council and ensure that it is provided to the Council and becomes the property of the Council;
- 10.1.3. not accepting any gift that could be perceived to influence us in the fulfilment of our role, functions and duties as a Councillor, particularly from a person who may have an interest in a matter before the Council for consideration and determination; and
- 10.1.4. declaring all gifts and hospitality in accordance with the *Gifts and Hospitality Policy 2014*.

10.2. We will comply with the requirements of sections 62, 62B, 79, 80A and 81 of the Act to:

- 10.2.1. disclose all election campaign donations valued at \$500 or more in Campaign Donation Returns;
- 10.2.2. not accept anonymous gifts valued at \$500 or more;
- 10.2.3. disclose all gifts (including election campaign donations) of \$500 or more in six monthly ordinary returns; and
- 10.2.4. disclose conflicts of interest in any matter where a disclosable gift has been received from a person with a direct interest in the matter.

10.3. Mayoral Event

- 10.3.1. In addition to regular and annual civic functions, the Mayor of the Day has discretion to host one Mayoral Event during the term of office.
- 10.3.2. The Mayor will ensure that the function/event is in proportion to the expected community benefit. Prior to any Mayoral event, the Mayor will present the theme of the event to all Councillors for discussion prior to organising the event. Any fundraising activities proposed for such events are required to be approved by Council Resolution.

## 11. Communications

11.1. As elected representatives and members of the Council we have important responsibilities to communicate the:

- 11.1.1. concerns of our constituents to the Council; and
- 11.1.2. policies and decisions of the Council to the community.

11.2. While respecting the rights of each Councillor to hold and express opinions that differ from agreed Council policy, we undertake:

- 11.2.1. not to make any false statements about the Council, Councillors, Council staff or members of the public;
- 11.2.2. not to make any defamatory statements about, Councillors, Council staff or members of the public;

- 11.2.3. to avoid misrepresenting the position of the Council and ensure that any expression of private views is not perceived to be the view of the Council;
- 11.2.4. to recognise the role of the Mayor as the primary spokesperson for the Council; and
- 11.2.5. to acknowledge and comply with all internal procedures for dealing with media enquiries, including by referring them to the appropriate Manager for a response.

## **12. Dispute Resolution Procedures**

- 12.1. We approve a dispute resolution procedure for use in circumstances where Councillors are unable to resolve interpersonal conflicts that adversely affect the operation of the Council or where 'misconduct' (as defined by section 81A of 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.
- 12.3. Where the parties are unable to resolve their differences informally, the following process will be applied:
  - 12.3.1. A written report (complaint) will be furnished by a Councillor to the Mayor detailing an alleged breach of the Code and specifying the provisions of the Code that are relevant to the breach.
  - 12.3.2. Within 5 working days of receipt of the complaint, the Mayor will:
    - 12.3.2.1. provide written acknowledgement of the complaint;
    - 12.3.2.2. provide a copy of the complaint to the Councillor concerned; and
    - 12.3.2.3. attempt to facilitate a resolution by convening and chairing a meeting between the Councillors concerned (or such other arrangement as may be appropriate).
  - 12.3.3. The Mayor may call upon the CEO for advice and guidance at this point in the process. The Mayor may appoint an independent expert to express an opinion in relation to the dispute in whole or in part.
  - 12.3.4. If the parties to the dispute are unable to resolve the dispute within 14 days of the meeting convened and chaired by the Mayor, they agree to the appointment of a mediator nominated by the CEO and acceptable to both parties, or, failing agreement, nominated by the President of the Municipal Association of Victoria and appointed by the CEO.
  - 12.3.5. If a mediator is appointed, we all agree to cooperate with the dispute resolution process and to use our best endeavours to assist the mediator when requested.
- 12.4. If the Mayor is the subject of the complaint, or is the complainant, the Deputy Mayor, or a Councillor chosen by Council for this purpose, will receive the complaint and undertake the duties of the Mayor in relation to its resolution.

12.5. We note that, if the dispute relates to alleged 'misconduct' (as defined by section 81A of the Act), and the dispute cannot be resolved through application of these dispute resolution procedures, it may be referred to a Councillor Conduct Panel.

### **13. Complaint Handling Process**

Where a complaint is received from the public in respect of a Councillor, the complaint will be conveyed to the Mayor and the named Councillor for their action. Council staff will not assess or investigate any such complaint. If the complaint involves a potential protected disclosure under the *Protected Disclosure Act 2012*, it will be dealt with in accordance with that Act and with the Council's *Protected Disclosure Policy & Procedures* (or any substituted policy or procedures).

### **14. Review**

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

### **15. Endorsement**

It is acknowledged that, in accordance with the Act, this Code addresses the statutory requirement set out in section 76C of the Act, namely it:

- 15.1. Includes the Councillor Conduct Principles;
- 15.2. establishes a process for resolving disputes between Councillors; and
- 15.3. includes other matters relating to the conduct of Councillors which the Council considers appropriate.

This Code is intended to bind all Councillors, irrespective of the date of their election and irrespective of whether they sign it.

This Code was adopted by the Council 2 December 2013.