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## **AGENDA**

Special Council meeting to be held  
at Darebin Civic Centre,  
350 High Street Preston  
on Monday, 13 February 2017  
at 5.30 pm.

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# Agenda

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## **1. MEMBERSHIP**

Cr Kim Le Cerf (Mayor) (Chairperson)

Cr Steph Amir

Cr Gaetano Greco (Deputy Mayor)

Cr Tim Laurence

Cr Trent McCarthy

Cr Lina Messina

Cr Susanne Newton

Cr Susan Rennie

Cr Julie Williams

## **2. APOLOGIES**

## **3. DISCLOSURES OF CONFLICTS OF INTEREST**

## 4. CONSIDERATION REPORTS

### 4.1 COUNCILLOR CODE OF CONDUCT

**Author:** Coordinator Council Business

**Reviewed By:** Director Civic Governance and Compliance

#### Report Background

Changes to the *Local Government Act 1989* arising from the *Local Government Amendment (Improved Governance) Act 2015* were passed by the Parliament in October 2015. Immediate reforms were implemented to improve the accountability of Councillor's and improvements to support the integrity and efficient conduct of Council elections.

The Councillor Code of Conduct must be reviewed and adopted within 4 months after a general election, by 22 February 2017 in accordance with Section 76C(2) of the *Local Government Act 1989*.

#### Previous Council Resolution

28 June 2016

#### Previous Briefing(s)

Councillor briefing, 19 December 2016.

#### Council Plan Goal/Endorsed Strategy

Goal 6: Open and Accountable Democracy

#### Summary

This report outlines the amendments made to the Councillor Code of Conduct for Council's consideration and adoption in accordance with Section 76C(2) of the *Local Government Act 1989*.

#### Recommendation

##### That Council:

- (1) Adopt the Councillor Code of Conduct attached as **Appendix A** to this report.
- (2) Note each individual Councillor must sign the Councillor Code of Conduct (Code) as their declaration that they will abide by the Code in accordance with section 76C(6A) of the *Local Government Act 1989*.
- (3) Note that each of the Councillor signatures must be witnessed by the Acting CEO in accordance with section 76C (6B) of the *Local Government Act 1989*.
- (4) Note that Council may determine to review this code every 12 months or as required.

## Introduction

The *Local Government Amendment (Improved Governance) Act 2015* reforms restructured and strengthen the legislative framework for the management of councillors conduct issues.

Immediate reforms were implemented to improve the accountability of Councillor's and improvements to support the integrity and efficient conduct of Council elections. These amendments to the *Local Government Act 1989* came into operation on 1 March 2016.

As a result, Council must review, and make any necessary amendments to its Councillor Code of Conduct within the period of 4 months after a general election:

- by calling a special meeting solely for the purpose of reviewing the Councillor Code of Conduct; and
- at that special meeting, approving any amendments to be made to the Councillor Code of Conduct determined by the Council to be necessary following the review of the Councillor Code of Conduct.

## Issues and Discussion

Only minor amendments have been made to the previous Councillor Code of Conduct that was adopted by previous Council on 28 June 2016. There were no changes made to the Dispute Resolution Process.

In line with Section 76C (6), a copy of the current Councillor Code of Conduct must be:

- (a) given to each Councillor;
- (b) available for inspection by the public at the Council office and any district offices;
- (c) published on the Council's Internet website maintained under section 82A.

## Options for Consideration

There are no further options for consideration.

## Financial and Resource Implications

There are no financial implications in relation to the Councillor Code of Conduct.

## Risk Management

Council would be in breach of section 76C (1) of the *Local Government Act 1989* if the Councillor Code of Conduct is not adopted by 22 February 2017.

Section 76C(6A) of the Act states that within one month of amendments to a Councillor Code of Conduct being approved in accordance with this section, a Councillor must make a declaration stating that they will abide by the Councillor Code of Conduct.

## Policy Implications

### Economic Development

There are no factors in this report which impact upon economic development.

### Environmental Sustainability

There are no factors in this report which impact upon environmental sustainability.

### **Human Rights, Equity and Inclusion**

There are no factors in this report which impact on human rights, equity and inclusion.

### **Other**

The Code is in line with the *Local Government Act 1989* and the *Local Government Amendment (Improved Governance) Act 2015*.

### **Future Actions**

- Each individual Councillor to read, sign and date the Councillor Code of Conduct and make a declaration to abide by the Code.
- The Acting Chief Executive Officer must sign and witness individual councillor declaration.
- A copy of the Code of Conduct is to be provided to all Councillors.
- The amended Councillor Code of Conduct will be published on Councils website as required by legislation.

### **Consultation and Advocacy**

- Independent Arbiter Panel
- Executive Management Team
- Councillors

### **Related Documents**

- *Local Government Act 1989*
- *Local Government Amendment (Improved Governance) Act 2015*
- Councillor Code of Conduct (**Appendix A**)

### **Disclosure of Interest**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.



# COUNCILLOR CODE OF CONDUCT 2017

**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 13 February 2017.**

## COUNCILLOR CODE OF CONDUCT

The Code of Conduct supports Councillors to enact the Darebin City Council's Organisational Values of collaboration, accountability, respect and integrity.

The Code of Conduct Code incorporates the highest possible standards of conduct and governance endorsed by legislation, and as outlined in the principles of relevant Council policies and practices, such as *The Charter of Good Governance* and Occupational Health and Safety.

The aim of the Code of Conduct is to encourage a resilient and safe workplace culture by promoting constructive working relationships and communication, and by supporting timely, fair and respectful resolution of disputes and conflicts as they arise.

The Code of Conduct seeks to establish a dispute and conflict management model which:

- i) provides early intervention *case management intake assessment* (refer to flowchart on page 17);
- ii) encourages *self-resolution* (with support) to maintain workplace relationships and promote constructive communication;
- iii) uses a *number of dispute and conflict resolution methods* to address the needs, interests and rights of the people involved; and
- iv) offers *preventative actions* - such as training and reviewing the work environment - to promote a resilient and safe workplace culture.

### 1. Councillor Pledge

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.

In doing so, we will:

- work together to create a safe working environment in the best interests of the Council and the people of Darebin;
- take responsibility for managing positive working relationships and to address issues as they arise in a timely, fair and respectful manner;
- treat all people with courtesy and respect;
- engage in training to improve our communication and workplace culture;
- act honestly, fairly and with reasonable care for the health and safety of others;
- be guided by the rules of natural justice; and
- consider the views of other affected parties.

We agree with and will support and promote the principles of conduct as set out in the Councillor Code of Conduct by our own example, and through individual and collective leadership to secure and preserve public confidence in the office of Councillor and the reputation of Council and the City of Darebin.



## 2. Councillor Conduct Principles

- 2.1. We endorse and agree to the following Primary and General 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 staff 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 which regulates proceedings at meetings of the Council and its committees.

## **5. Conflicts of Interest**

- 5.1 We recognise that decisions must be made solely in the public interest and will be vigilant in ensuring a clear separation between our private and public interests.
- 5.2 We also recognise 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 also recognise that it remains our individual responsibility before the law to assess and 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 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.
- 5.4 To recognise 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, and undertake to:
- Fully comply with the requirements to disclose all conflicts of interest in Council meetings, committee meetings, Councillor briefings and other assemblies of Councillors;
  - Avoid 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 (in line with the Gifts policy);
  - Take careful note of forthcoming matters for Council consideration; identify situations where conflicts of interest may arise and giving early notice of such conflicts to the Mayor/chairperson and the Chief Executive Officer (CEO).

## **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. Accordingly, we undertake to:
- Not release information that is confidential for the purposes of section 77 of the Act;
  - Not misusing the confidentiality provisions of the Act as a means of improperly withholding information from the public;
  - Maintain the security of information that is “personal information” for the purposes of the Information Privacy Act 2000; and
  - Not seek 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:

- Significant resources would be required to access the information and Council has not resolved to allocate resources for that purpose; or
- The information is private or confidential to another person and the information is not demonstrably required for an official purpose.

## **7. Relationships with CEO, management and 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 and to protect and promote a healthy and productive workplace culture. Accordingly, we undertake to:

- Encourage a culture of frank and fearless advice;
- Treat all staff with courtesy and respect;
- Avoid negative comments about Council staff in public, and
- Lead by example, promote and protect the positive culture of Council and of a healthy, happy and productive workplace,
- Respond immediately to inappropriate behaviour.

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.

7.3 While we promote the importance of working in partnership, we understand the need for 'professional detachment' and to stay clear of 'operational matters' and accordingly we will not 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.

Specifically this means we will:

- NOT interfere with staffing or operational matters that are the sole responsibility of the Chief Executive;
- NOT direct the operations of the Council, individually or collectively, other than through decision making in properly constituted Council and special committee meetings, and
- NOT 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:
  - In regard to advice being provided to Council or a committee;
  - In the exercise of any delegated power, duty or function; or
  - In the exercise of a duty or function as an authorised officer or other statutory position.

7.4 We understand if a Councillor or the member of Council staff considers that either has breached any of these Protocols, he or she:

- May immediately terminate the interaction with the Councillor or Council staff member;
- 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

- Must report, in relation to a member of Council staff, to the Chief Executive the nature of the complaint.
- 7.5 We recognise that 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 in accordance with an agreed process.
- 7.6 We recognise that 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**

- 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 may in the first instance, request information from the relevant Director or Manager. If the councillor requests information from a Manager, then the Director must be copied into any such requests.
- 8.3.1.4. The request should not be designed to embarrass a 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 text messages and oral discussions between Councillors and Council staff, must be recorded by the Council staff member on a 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. The Chief Executive and Executive Management Team 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.

## 8.5. 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, such as the Principal Conduct Officer, for the purpose who is independent of the parties must, if it is considered appropriate practicable to do so, encourage the Councillor and member of Council staff to attend a meeting. If a meeting is held, matters raised and discussed 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 meeting or:
  - (a) encouragement is given but a meeting does not take place; or
  - (b) the meeting 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 member of the Independent Arbiter Panel, who has had no previous involvement with the matters, 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 provided) are to be used solely for public purposes. Accordingly, we will:
  - 9.1.1. not use public funds or resources which includes mobile phones and cab charges 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 within 14 days of submitting the mobile phone, cab charge declaration forms or travel advice;
  - 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 2017 and continue to support the public disclosure of reimbursements, including any outstanding 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 received or declined 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:
- 11.3. Not to make any false statements about the Council, Councillors, Council staff or members of the public;
- 11.4. Not to make any defamatory statements about, Councillors, Council staff or members of the public;
- 11.5. 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;
- 11.5.1. to recognise the role of the Mayor as the primary spokesperson for the Council; and
  - 11.5.2. 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 support the Council's commitment to a dispute and conflict resolution model that aims to *work with* Councillors and Council to manage conflicts, resolve disputes and address formal complaints by providing:
- a case management intake assessment;
  - a high level of ownership and responsibility by the parties in managing their own issues;

- appropriate conflict and dispute resolution processes, including formal complaint procedures;
- access to a Principal Conduct Officer (PCO) and an internal Interdependent Arbiter Panel (IAP); and
- timely, fair and respectful responses to matters raised.

12.2 We approve the dispute and conflict resolution procedures for use in circumstances where Councillors are experiencing interpersonal disputes and conflicts that are creating an unhealthy working environment or adversely affecting the operation of the Council or where 'misconduct' (as defined by section 3 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.

12.3 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.

12.4 Where the parties are unable to resolve their differences, the following dispute resolution procedure will be applied.

12.5 We agree the matters raised and discussed in the dispute resolution procedures will remain confidential, unless the parties have agreed to disclose information or are required to do so under s 77(1A).

### 13. Dispute and Conflict Resolution Procedure

#### Definitions

A **dispute** can arise from a lack of clarity about the application of the principles of the Code of Conduct and require assisted negotiation to support disputants to resolve their dispute. Interpersonal **conflict** can arise from poorly resolved disputes about the application of the principles of the Code of Conduct which affects the ability for parties to communicate constructively and requires a facilitated process to bring together those affected and help parties to address the conflict and how best to improve the situation.

The Act defines "misconduct" as –

- failure by a [Councillor](#) to comply with the [Council's internal resolution procedure](#); or
- failure by a [Councillor](#) to comply with a written direction given by the [Council](#) under section 81AB; or
- repeated contravention of any of the [Councillor conduct principles](#).

When an **accusation** is made about misconduct, the severity of the accusation will be assessed to ascertain whether the dispute requires an internal or external formal fact-finding procedure.

## **Integrated stages of the Dispute and Conflict Resolution (DR) procedure**

There are 4 stages to the dispute resolution procedure. The emphasises of the first two stages are to encourage the parties directly involved in a situation to firstly be supported to manage the matter at the lowest possible level, and with the most appropriate response. The final stages provide processes that can formally address a complaint:

1. Stage 1 (Assessment and Informal (Supported) Resolution)
2. Stage 2 (Internal Facilitated Process)
3. Stage 3 (Internal Panel Finding)
4. Stage 4 (External Panel Finding)

The stages will generally, although not always, be undertaken in progression (see flowcharts below). However, there may be situations where parties cannot be supported to resolve the matter themselves or with an independent arbiter facilitating a process, or there are circumstances that require, in the first instance, a formal process to investigate allegations made.

- 13.1 Parties to a dispute, in interpersonal conflict or making an allegation will lodge a Dispute Resolution Application form with the Principal Conduct Officer. The application will be assessed to clarify the concern, as perceived by the applicant, and to ascertain the appropriate response. Parties who have not attempted to resolve their disputes, may be supported to resolve their matters informally first with the support of the Mayor and / or a member of the Independent Arbiter Panel (if appropriate).
- 13.2 After the parties have made appropriate efforts to resolve the matter and where there is no favourable outcome achieved through informal processes, then the most appropriate member from the internal Independent Arbiter Panel will be appointed by the PCO to undertake an investigation and make a finding to present to Council.
- 13.3 The appointed Arbiter will liaise with the PCO to coordinate a suitable date and time to meet with the parties involved and to obtain any supplementary information they may require.
- 13.4 Prior to the scheduled meeting, at which time the parties involved will be given the opportunity to be heard, the respondent will be provided with:
  - 13.4.1 Details of the allegations if they have not already been provided; and
  - 13.4.2 The opportunity to make written responses and provide any evidence to the allegations within 5-7 working days. A respondent may apply, with reasons, for an extension of time to provide a response of up to 7 days.
- 13.5 If the dispute relates to alleged 'misconduct' (as defined by section s.3 of the Act), and the dispute cannot be resolved through application of any of these dispute resolution procedures, it may be referred to a Councillor Conduct Panel.

## 14. Personnel

### Role of Principal Conduct Officer (PCO)

The Principal Conduct Officer (as outlined in the *Local Government Act 1989*, s81X) must-

- (a) assist the Council in the implementation and conduct of the internal dispute resolution procedure of a Council; and
- (b) assist the **Principal Councillor Conduct Registrar** to perform the functions specified in section 81T.

The PCO's role is to provide timely **guidance** to Councillors (and the Council) in regards to the internal dispute resolution procedure, receive and **assess** the Dispute Resolution Application Form, notify the Mayor (when appropriate), and **engage the assistance** of the internal Independent Arbitrator Panel (IAP) as required.

The PCO's role involves **facilitating the information** between the Council and the internal Independent Panel and the external Councillor Conduct Panel.

### Role of the Mayor

The functions of Mayor (as outlined in the *Local Government Act*, s73AA) include amongst other things-

- a) Providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65 of the Act, and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors under sections 76B, 76BA and 76C of the Act; and
- b) Supporting good working relations between Councillors.

The elected Mayor will within 4 weeks of the Special Statutory Council meeting, undertake specific dispute resolution and conflict management training to assist in providing support for councillors to resolve their dispute.

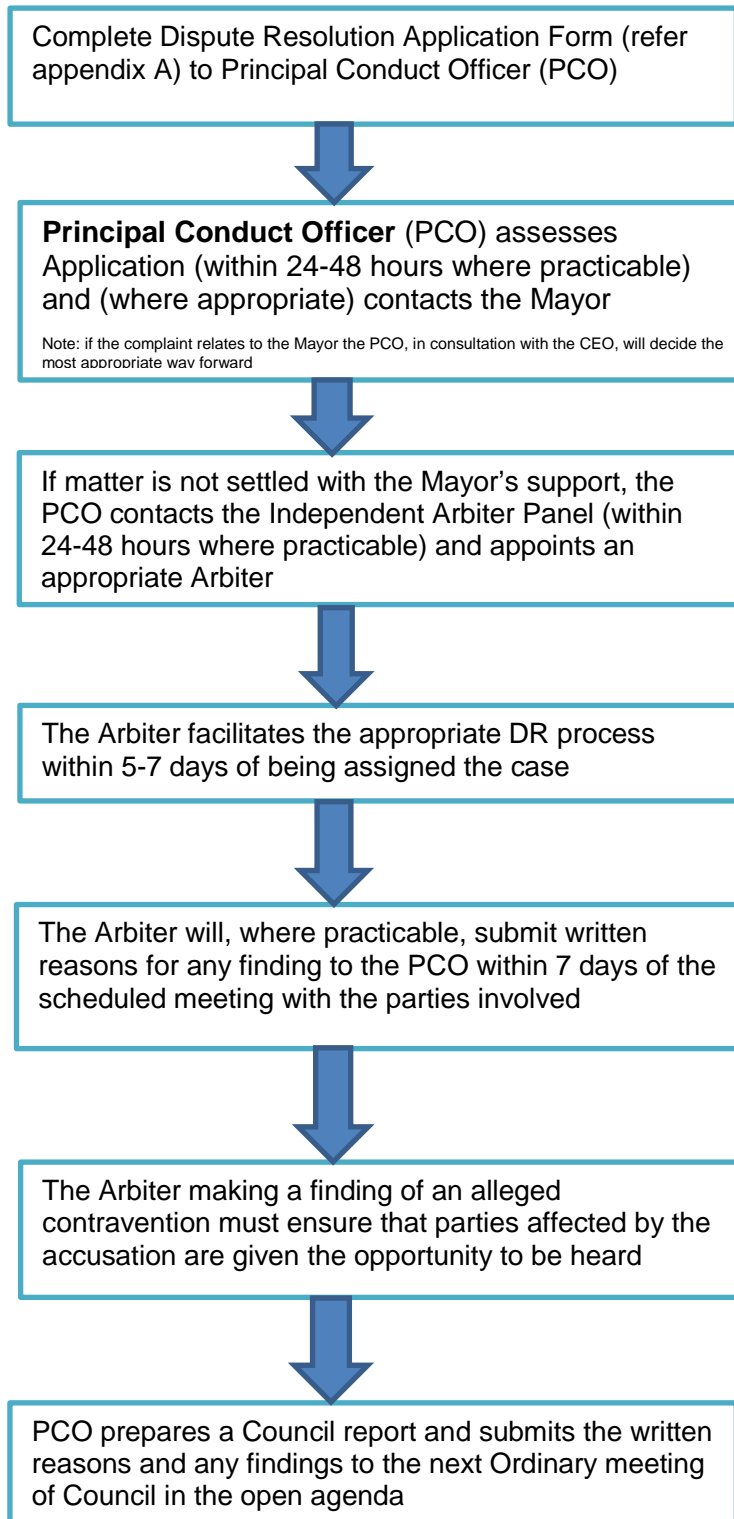
### Role of Internal Interdependent Arbitrator Panel (IAP)

The Independent Arbitrator's role is to facilitate dispute and conflict resolution processes to support Councillors to work together to resolve disputes and interpersonal conflict and/or to make findings in relation to any application alleging contravention of the Councillor Code of Conduct.

The Arbitrator is to conduct any internal resolution procedure in a procedurally fair and timely manner.

## Flowchart of Dispute and Conflict Resolution Procedure:

*Note: this process only occurs after a councillor has made an attempt to resolve the matter directly with the other councillor(s) and through that attempt the matter was not resolved.*



## Role of Council

The role of Council during an Ordinary Meeting of Council is to assess any findings and reasons for the finding. Council may give one or all of the following written directions to the Councillor:

Direct the Councillor to make an apology in a form or manner specified by the Council

Direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Council from the next scheduled meeting of the Council after the direction is made

Direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by the Council, the Councillor—

- (i) be removed from any position where the Councillor represents the Council; and
- (ii) not to chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.

## 14. Complaint Handling Process

Where a complaint is received from the public in respect of a Councillor, the complaint will be conveyed to the CEO in the first instance. The CEO, and where appropriate the Mayor and/or PCO, will determine the appropriate process to deal with the complaint. If a complaint is in respect of the CEO, the complaint will be referred directly to the PCO to make an assessment of the complaint and if necessary advise the Mayor of the appropriate action being undertaken in dealing with the complaint.

Council staff will not assess or investigate any such complaint received in relation to a councillor. 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).

## 15. Review

This Code will be reviewed within 4 months of each general election at which time a Special Council meeting will be scheduled solely for the purpose of reviewing and adopting this code.

In addition to the above, Council may determine to review this code every 12 months or as required.

**16. 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:

- 16.1. A special meeting of Council solely for the purpose of reviewing and adopting the Councillor Code of Conduct;
- 16.2. includes the Councillor Conduct Principles;
- 16.3. includes an internal resolution procedure for dealing with alleged contravention of the Councillor Code of Conduct;
- 16.4. includes other matters relating to the conduct of Councillors which the Council considers appropriate; and
- 16.5. Declaration by each Councillor that they will abide by the Councillor Code of Conduct.

As Councillors, the following signatures represent our individual declaration that we will abide by the Councillor Code of Conduct.

<u>Councillor</u>	<u>Signed</u>	<u>Date</u>	<u>A/CEO Signature</u>
Cr Kim Le Cerf	.....	.....	.....
Cr Susanne Newton	.....	.....	.....
Cr Trent McCarthy	.....	.....	.....
Cr Steph Amir	.....	.....	.....
Cr Julie Williams	.....	.....	.....
Cr Lina Messina	.....	.....	.....
Cr Tim Laurence	.....	.....	.....
Cr Gaetano Greco	.....	.....	.....
Cr Susan Rennie	.....	.....	.....

I, Philip Shanahan Acting Chief Executive of Darebin City Council have witnessed each of the Councillor signatures in accordance with section 76C(6B) of the *Local Government Act 1989*.

Acting Chief Executive, Philip Shanahan ..... Date: .....

## Appendix A

### Councillor Dispute Resolution Application

Application lodged by:	Cr.
Date of application:	
Concern/Complaint :	
Party or parties involved:	Cr.
It is an expectation of the Code of Conduct that individuals will have first attempted to resolve the issue with the other person, before escalating the matter for resolution through this process. Describe the steps you have taken to attempt to resolve this issue.	
What section(s) of the Councillor Code of Conduct is alleged to be in breach:	
Nature of problem (please detail some of the matters involved):	
Nature of the allegation (please detail including any evidence):	

#### Principal Conduct Officer to complete section below

Independent Arbiter assigned:	Name: Date:
Date matter resolved:	
Date written reasons given for any findings made by the arbiter:	
Date finalised matter reported to Council:	



**5. CLOSE OF MEETING**