

Management report to Council

Agenda item 6.2

Councillor Code of Conduct 2020

Council

Presenter: Keith Williamson, General Manager Governance and Organisational Development

15 December 2020

Purpose and background

1. The purpose of this report is to seek Council endorsement for a revised Councillor Code of Conduct 2020 (Code). This report also seeks Council endorsement for the following revised documents referred to in the Code:
 - 1.1. Councillor Occupational Health and Safety Policy 2020.
 - 1.2. Councillor Respectful Conduct Policy 2020.
 - 1.3. Councillor Fitness to Carry Out Duty Policy 2020.
 - 1.4. Councillor Protocol 2020.
2. To assist clean versions of the revised document appear in the order above at Attachments 2C to 6C Corresponding marked up versions of the revised documents appear in the same order at Attachments 2M to 6M.
3. The proposed new text to be included in the Code and associated policies is indicated in Attachments 2M to 6M by red text. Any text proposed to be removed or replaced from the documents is indicated by ~~strikethrough~~ feature.
4. The Council is required to ensure that the Code meets the requirements of the *Local Government Act 2020 (Vic) (Act)* and *Local Government (Governance and Integrity) Regulations 2020 (Vic) (Regulations)* to include certain matters in the Code by 24 February 2021. The matters which the Code must include are four new mandatory standards of Councillor conduct (conduct standards) and a new internal arbitration process for determining complaints alleging misconduct under the Code.
5. The primary focus of the revised Code is to ensure compliance with the new legislative requirements. Very minimal substantive changes are proposed to be made to the associated policies (Attachments 3M, 4M and 5M of the management report) referred to in the Code other than the Councillor Protocol 2020 (Attachment 6M). One of the associated policies, the Councillor Expenses Policy 2020 which was adopted by the Council in August 2020, will remain unchanged.

Key issues

6. The four conduct standards replace the Primary and General Principles of Councillor Conduct which previously existed under the *Local Government Act 1989 (Vic)*. The conduct standards outline mandatory requirements for Councillors that address the following main areas of Councillor behaviour:
 - 6.1. Standard 1: Treatment of others.
 - 6.2. Standard 2: Performing the role of Councillor.
 - 6.3. Standard 3: Compliance with good governance measures.
 - 6.4. Standard 4: Maintaining Council reputation.
7. The conduct standards are intended to provide greater clarity around the behaviour expected of Councillors and a consistent framework for handling complaints alleging misconduct under the Code.

Recommendation from management

8. That Council:

8.1. Adopts the revised:

8.1.1. Councillor Code of Conduct 2020 (Attachment 2C)

8.1.2. Councillor Occupational Health and Safety Policy 2020 (Attachment 3C)

8.1.3. Councillor Respectful Conduct Policy 2020 (Attachment 4C)

8.1.4. Councillor Fitness to Carry Out Duty Policy 2020 (Attachment 5C)

8.1.5. Councillor Protocol 2020 (Attachment 6C)

Attachments:

- 1. Supporting Attachment (Page 3 of 156)
- 2C. Councillor Code of Conduct 2020 Clean Version (Page 4 of 156)
- 3C. Councillor Occupational Health and Safety Policy 2020 Clean Version (Page 41 of 156)
- 4C. Councillor Respectful Conduct Policy 2020 Clean Version (Page 418 of 156)
- 5C. Councillor Fitness to Carry Out Duty Policy 2020 Clean Version (Page 57 of 156)
- 6C. Councillor Protocol 2020 Clean Version (Page 65 of 156)
- 2M. Councillor Code of Conduct 2020 Marked Up Version (Page 78 of 156)
- 3M. Councillor Occupational Health and Safety Policy 2020 Marked Up Version (Page 118 of 156)
- 4M. Councillor Respectful Conduct Policy 2020 Marked Up Version (Page 125 of 156)
- 5M. Councillor Fitness to Carry Out Duty Policy Marked Up Version (Page 134 of 156)
- 6M. Councillor Protocol 2020 Marked Up Version (Page 142 of 156)

Supporting Attachment

Legal

1. The amendments to the Code and revised internal arbitration process reflect the requirements prescribed by the Act and the Regulations.
2. Councillors have specific obligations as individuals and as a group under the *Occupational Health and Safety Act 2004* (Vic) and the *Occupational Health and Safety Regulations 2017* (Vic) that have been taken into account in the preparation of the report.

Finance

3. There is no financial implication relating to the recommendations from management.

Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising or in preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

Health and Safety

5. The revised Code continues to recognise the shared responsibility of Councillors to maintain a safe workplace for all in compliance with the provisions of the *Occupational Health and Safety Act 2004* (Vic) and the *Occupational Health and Safety Regulations 2017* (Vic). The Occupational Health and Safety obligations of Councillors and the procedures for reporting Occupational Health and Safety concerns are set out in the Councillor Occupational Health and Safety Policy 2020 at Attachment 3.

Stakeholder consultation

6. No external stakeholder consultation was required given the nature of the review.



Councillor Code of Conduct 2020

Adopted by Melbourne City Council on 15 December 2020

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SECTION 1: BACKGROUND

1.1 OVERVIEW

The governance arrangements that cover the City of Melbourne are set out in the [Local Government Act 2020](#) (the Act) and the [City of Melbourne Act 2001](#). The primary objective for the Melbourne City Council (Council) is to endeavour to achieve the best outcomes for the local community having regard to the long term cumulative effect of its decisions. Further objectives are set out in the Acts. Good governance is fundamental to the achievement of Council's objectives.

[The Act](#) requires Council to have a Councillor Code of Conduct and prescribes certain requirements.

The Councillor Code of Conduct must set expected standards of Councillor behaviour and provide guidance in the event of any Councillor breach of the Code of Conduct.

This Councillor Code of Conduct (the Code) was adopted by Melbourne City Council (Council) on 15 December 2020 and is required to be reviewed within four months after a general election. This Code replaces the previous Councillor Code of Conduct adopted by resolution of Council on 4 September 2018.

The Code of Conduct will be reviewed annually by Councillors.

1.2 PURPOSE

The purpose of the Code is to set out the principles, values, standards and behaviours that will guide Council collectively and the Councillors individually in undertaking their duties and obligations as set out in [the Act](#), the [City of Melbourne Act 2001](#) and all other applicable legislation. This Code is intended to set a high standard of conduct in order to ensure good governance and increase public confidence in the administration of Council. As custodians of a capital city government, the Lord Mayor, Deputy Lord Mayor and Councillors hold unique and important leadership roles within Victoria.

1.3 SCOPE

This Code:

- sets out the behaviour expected of elected representatives of Council
- supports and fosters good working relationships between Councillors, and between Councillors and employees of Council and the community
- mandates conduct by Councillors which builds public confidence in the integrity of local government.

This Code applies to a Councillor who is:

- conducting the business of Council
- conducting the business of the office to which they have been elected or appointed
- acting as a representative of Council.

For the purposes of this Code, the term ‘Councillors’ includes the Lord Mayor, the Deputy Lord Mayor and all other Councillors of Council, except where the context otherwise indicates or requires.

This Code adopts and incorporates relevant Councillor protocols, policies, procedures and other documents, as amended from time to time, which are set out in Appendix 1. By agreeing to this Code, Councillors are expressly agreeing to adhere to the policies in Appendix 1 as agreed by Council at that time.

Legislative obligations of Council and Councillors are expressly set out in the Code where required by legislation. Council and Councillor obligations in [the Act, City of Melbourne Act 2001](#) and other applicable legislation (as amended) apply to Council and Councillors even if not expressly set out in the Code.

This Code should be read alongside other Council documents, including the Council Plan, Council policies, protocols and Council’s local laws, as applicable, which all form part of Council’s governance framework.

This Code should not be read as an exhaustive statement on the rights and obligations of individuals that ordinarily apply under the law, including any avenues of reporting and redress that may be available in specific circumstances.

Where members of the public would like to raise a complaint against a Councillor for a possible breach or offence under the Act or this Code, this may be directed to the Chief Municipal Inspector or the City of Melbourne Councillor Conduct Officer.

1.4 COUNCILLOR COMMITMENT TO THE CODE OF CONDUCT

I, as an elected representative of the community charged with decision making for the City of Melbourne, am committed to undertaking the duties and responsibilities of my office by working together with my fellow Councillors in a respectful and constructive manner to achieve the goals and vision for our city.

I recognise the importance of acting in accordance with the highest standards of governance, and that this is essential to honest, accountable and effective government. My behaviour towards my colleagues, the employees of Council and the community is critical to the teamwork required to be a successful and highly functioning public authority.

I acknowledge that I have been elected by the community to a position of significant responsibility with the expectation that I will act in accordance with accepted values of our society.

I also acknowledge that Council is committed to the ICARE values of integrity, courage, accountability, respect and excellence. These values and associated obligations are set

out in this Code together with additional conduct requirements and processes for the management of behaviour which does not meet the required standards. The Code also incorporates specified protocols, policies and procedures which underpin the values and provide guidance for the implementation and management of Councillor conduct.

As a Councillor of the City of Melbourne I agree to:

- act in accordance with the principles of good governance and respectful conduct and associated obligations set out in the Code and legislation
- provide civic leadership and contribute effectively to the interests and advancement of Council and its community
- contribute to the strategic vision for Council
- uphold the public trust in the office of Councillor by refraining from any action or behaviour that would bring Council into disrepute
- act in accordance with all my obligations to the best of my skill and judgment.

This Code sets out my commitment to my fellow Councillors and the community to govern the city in a manner which accords with the expressed behaviours, standards and values.

This Code will be reviewed in accordance with relevant legislative obligations. Additionally, every twelve months Councillors will review this Code to ensure that it meets and continues to meet community standards and expectations.

By signing below, I declare to my fellow Councillors and to the community that I have read, understood and will abide by this Code of Conduct.

Lord Mayor Sally Capp

Deputy Lord Mayor Nicholas Reece

Councillor Olivia Ball

Councillor Roshena Campbell

Councillor Jason Chang

Councillor Elizabeth Mary Doidge

Councillor Davydd Griffiths

Councillor Jamal Hakim

Councillor Philip Le Liu

Councillor Rohan Leppert

Councillor Kevin Louey

Witnessed by Chief Executive Officer, Justin Hanney

SECTION 2: COUNCILLOR CONDUCT OBLIGATIONS

2.1 COUNCILLOR CONDUCT STANDARDS

Councillors must comply with the prescribed standards of conduct in Schedule 1 to the *Local Government (Governance and Integrity) Regulations 2020*. A copy of the conduct standards appears at Appendix 3.

A breach of the conduct standards constitutes misconduct as defined under the Act.

2.1.1 Standard 1 – Treatment of others

In performing the role of a Councillor, I will treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that I:

- take positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the *Equal Opportunity Act 2010*.
- support Council in fulfilling its obligation to achieve and promote gender equality.
- do not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors.
- in considering the diversity of interests and needs of the municipal community, treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities.

2.1.2 Standard 2 – Performing the role of Councillor

In performing the role of a Councillor, I will do everything reasonably necessary to ensure that I perform the role of a Councillor effectively and responsibly, including by ensuring that I:

- undertake any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor.
- diligently use Council processes to become informed about matters which are subject to Council decisions.
- am fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity.
- represent the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

2.1.3 Standard 3 – Compliance with Good Governance Measures

In performing the role of a Councillor, to ensure the good governance of Council, I will diligently and properly comply with the following:

- any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors.
- the Council expenses policy adopted and maintained by the Council under section 41 of the Act.
- the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act.
- any directions of the Minister issued under section 175 of the Act.

2.1.4 Standard 4 – Council Reputation

In performing the role of a Councillor, I will:

- ensure that my behaviour does not bring discredit upon Council.
- not deliberately mislead Council or the public about any matter related to the performance of their public duties.

2.2 COUNCILLOR VALUES AND BEHAVIOURS

In undertaking my role as a Councillor I will embrace and demonstrate Council's corporate values, which set out our shared goal to work together for Melbourne. In challenging and inspiring myself and others to realise our vision for the city, I will demonstrate the following:

2.2.1 Integrity

I will conduct activities professionally and ethically and take responsibility for my actions in an honest and transparent way. I endeavour to:

- deal with others fairly and consistently
- follow through on commitments
- represent my views truthfully
- be open to constructive feedback
- consider the whole picture, seek evidence before forming views and be prepared to discuss how views were formed.

This includes, for example:

- abiding by relevant legislation and Council policies, protocols and procedures

- encouraging an environment for the giving of frank advice or raising issues
- supporting fellow Councillors if I believe they have been treated unfairly or disrespectfully.

2.2.2 Courage

I will exercise fortitude in decision-making and accept responsibility for the consequences of my own actions and choices. In doing so I endeavour to:

- raise issues directly, constructively and in an appropriate forum
- be willing to explore new ideas and ways of doing things
- present and debate ideas and innovations to the best of my ability and willingly accept outcomes
- speak for myself rather than relying on others.

This includes, for example:

- being prepared to raise issues through appropriate channels on workplace issues that fall short of expected values and behaviours
- demonstrating leadership by modelling agreed Councillor values and behaviours.

2.2.3 Accountability

I will take personal responsibility for decisions and actions. In doing so, I endeavour to:

- ensure best use of resources
- take responsibility for making sure my personal actions contribute to the agreed outcomes
- act and work in an open and transparent manner and report results
- recognise the achievements of others when appropriate
- be responsive in a timely manner.

This includes, for example:

- ensuring I have up-to-date knowledge of latest workplace standards and appropriate behaviours by seeking information and guidance as necessary
- co-operating with a request by a fellow Councillor when asked to resolve a dispute in accordance with the procedures in this Code
- following up on commitments I have made to members of the community in a timely manner.

2.2.4 Respect

I will value the contribution and individuality of others and contribute to healthy working relationships. In doing so, I endeavour to:

- recognise and encourage the ideas and contributions of others
- show respect when interacting with, speaking to and about others
- respect and relate well to people of diverse backgrounds
- be courteous and approachable and respect others' boundaries
- positively contribute to, and participate in, Councillor group activities
- actively listen to, consider and debate other people's ideas constructively, including when they are different to my own.

This includes, for example:

- treating a fellow Councillor or members of the community as I would like to be treated
- adhering to appropriate protocol during meetings and treating members of the public with dignity
- welcoming officers' frank and fearless advice.

2.2.5 Excellence

I will aim to achieve the highest standards and continuously improve performance to achieve outstanding outcomes for Melbourne. In doing so, I endeavour to:

- be strongly focused on results
- understand what is required to deliver excellence and seek support when needed
- continually strive for improvement.

This includes, for example:

- undertaking any training and development necessary to meet the obligations and standards expected of me
- supporting a culture where everyone lives by shared Council values and standards
- voluntarily contributing to conversations to collectively reflect on our practice of the Code.

2.3 SPECIFIC COUNCILLOR CONDUCT OBLIGATIONS

The following section sets out specific conduct obligations that are agreed by all Councillors. In some instances a breach of the conduct obligations under this part might also constitute a breach of the conduct standards. As noted in 2.1 a breach of the conduct standards may result in a finding of misconduct under the Act.

I acknowledge and agree that Council policies, protocols and procedures referred to below apply to me as a Councillor and I commit to compliance with them and with my legislative obligations.

2.3.1 Decision making

I am committed to making all decisions impartially and in the best interests of the community. I will actively participate in the decision-making process and appropriately inform myself of the matter at hand. Once a decision has been made, I will respect the making of that decision.

The [Councillor Protocol](#) and Governance Rules set out the procedures for decision making by Council and I agree to adhere to both.

2.3.2 Use of Council information

I acknowledge that information which is “confidential information” within the meaning of section 3 and section 125 of [the Act](#), and Chapter 6 of the Governance Rules may not be disclosed by me except in certain specified circumstances. I am aware that Council information may also be subject to other legislation including the [Health Records Act 2001](#), [Privacy and Data Protection Act 2014](#) and [Freedom of Information Act 1982](#).

The [Councillor Protocol](#) provides extra context regarding the treatment of confidential information.

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

2.3.3 Communications and media

Councillors have an obligation to effectively and satisfactorily communicate the decisions of Council and to respond to the community as required. To ensure that clear and consistent messages are communicated, the [Councillor Protocol](#) sets out the management of media enquiries, release of information and nominated spokespersons.

I will comply with the [Councillor Protocol](#) and respect the roles of Council’s official spokespersons. I will also:

- respect Council's decisions by not criticising or actively undermining any decisions which have been made
- not bring Council into disrepute through any of my words or actions
- not speak on behalf of Council without authority
- ensure any personal opinions or views I express publicly are identified as my own and not those of Council
- ensure any communications I make are not offensive, derogatory, insulting or otherwise damage the reputation of Council.

2.3.4 Conflict of interest

Sections 126 to 131 of [the Act](#), and Chapter 5 of the Governance Rules require each Councillor to identify, manage and disclose any conflicts of interest they may have. I acknowledge that I have read and understand these provisions and will abide by them. In the event that I consider that I have an actual or perceived conflict of interest in relation to a matter, I will declare and identify this at the commencement of any discussion on the matter. I will seek advice from the Chief Executive Officer or other appropriate person if I need assistance on interpretation of the legislative provisions.

I understand that the declaration must be in writing, and must be made at any Council meeting, Committee meeting or meeting at which an employee is present, at which the matter is to be discussed.

2.3.5 Significant and/or intimate relationships

I understand that conflict and bias can arise from situations where relatives or people with significant and/or intimate relationships work together, and this can potentially lead or be seen to lead to decisions I make as a Councillor being made for reasons other than the public interest.

If I am involved in a relationship of a significant or intimate nature with another Councillor or an employee, I undertake to disclose the fact of this relationship to the Lord Mayor and the Chief Executive Officer.

2.3.6 Gifts and hospitality

I commit to compliance with my statutory obligations in relation to gifts and hospitality. I also undertake to comply with Council's policy to publicly disclose all gifts, benefits or hospitality received in my capacity as a Councillor, in accordance with the Councillor Gift Policy.

In addition, I commit to notify the Chief Executive Officer and Director Governance if in the conduct of my duties, I receive an inappropriate offer or benefit of any kind.

2.3.7 Reporting fraud and corruption

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

I will immediately report to the Chief Executive Officer and/or appropriate integrity body, in line with the Council's Public Interest Disclosures Procedures, any suspected, potential or actual fraudulent, criminal, unethical, corrupt or other unacceptable behaviour that comes to my knowledge. I will participate as required to the best of my ability in any subsequent investigation whether undertaken internally or externally.

2.3.8 Councillor and officer engagement

I have read and understood the requirements of Section 124 of [the Act](#) and I will not seek to improperly direct or influence members of Council staff in the exercise of their duties. I will follow all procedures and protocols which set out interaction between Councillors and the Chief Executive Officer, senior management and other employees.

2.3.9 Use of council resources

I commit to using Council resources effectively and economically and in accordance with all Council policies. In particular, I will:

- use Council resources, which may include equipment, information, staff resources, property of any kind and other assets, which have been provided to me only for the purposes of my duties as a Councillor and not for private purposes unless properly authorised to do so
- maintain adequate security over Council property, facilities and resources in my possession or control
- ensure that any claim for expenses that I may make will be in accordance with all legislative obligations and Council policies
- not use public funds or resources in a manner that is improper or unauthorised.

2.3.10 Meeting planning permit applicants

When proposing to meet with a known or proposed planning permit applicant (or property owner, or their representative), either for the purpose of discussing the application or where the application is likely to become a topic of discussion, I will hold the meeting with a planning officer present.

2.3.11 Political activity

I am committed to ensuring that elections conducted by the City of Melbourne are conducted fairly and democratically and in accordance with the highest standards of governance. Where I am a sitting Councillor during an election period I will abide by the requirements of the applicable legislation and the Council-endorsed [Election Period Policy](#) (which forms part of the Council's adopted Governance Rules) and, whether or not I am standing for re-election, I will at all times act respectfully towards all candidates for the election.

2.3.12 Human rights and equal opportunity

In performing their role Councillors must take positive action to eliminate discrimination in accordance with the *Equal Opportunity Act 2010* and support Council in fulfilling its obligation to achieve and promote gender equality.

I acknowledge the human rights that are protected under the [Victorian Charter of Human Rights and Responsibilities Act 2006](#) and undertake to exercise my duties in a manner that is compatible with the rights set out in the Charter.

I acknowledge this undertaking extends to all my relationships as a Councillor, including with other Councillors, the Chief Executive Officer and Council employees, as well as any member of the public with whom I may have contact, and any decisions I participate in as a Councillor.

I am committed to treating all people with dignity and respect in accordance with Council's Respectful Conduct Policy, which recognises that there is no place for unlawful discrimination, harassment (sexual or otherwise), racial and religious vilification and victimisation of any individual.

I will:

- take all reasonable steps to eliminate all forms of discrimination at Council
- support Council to fulfil its obligation to achieve and promote gender equality
- adhere to Council's Respectful Conduct Policy.

2.3.13 Sexual harassment

Sexual harassment is against the law and will not be tolerated under any circumstances. In performing their role Councillors must take positive action to eliminate sexual harassment in accordance with the *Equal Opportunity Act 2010*. I will not engage in any unwelcome conduct of a sexual nature towards another individual where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the individual harassed would be offended, humiliated or intimidated.

I will:

- adhere to Council's Respectful Conduct Policy
- take all reasonable steps to eliminate sexual harassment at Council.

2.3.14 Bullying, vilification and victimisation

Council is committed to maintaining a workplace that is free from bullying, vilification and victimisation, where all people are treated with dignity and respect. In performing their role Councillors must take positive action to eliminate victimisation in accordance with the *Equal Opportunity Act 2010*. I will uphold Council's obligations to support a safe workplace, and will not engage in repeated unreasonable behaviour toward another Councillor or member of Council staff that creates a risk to the health and safety of that other Councillor or member of Council staff.

I will:

- adhere to Council's Respectful Conduct Policy
- take all reasonable steps to eliminate bullying, vilification and victimisation at Council.

2.3.15 Occupational health and safety

Council is committed to providing and maintaining a safe workplace for all and recognises the provisions of the [Occupational Health and Safety Act 2004](#) (OHSA) apply to Council and Councillors. The Chief Executive Officer has a clear accountability for OHS matters, given their mandate under [the Act](#), and will put policies in place from time to time to ensure a safe workplace for Councillors to carry out their civic duties.

I will adhere to Council's Occupational Health and Safety Policy.

As a Councillor, I understand that occupational health and safety is a shared responsibility. Accordingly, I will:

- take reasonable care to protect my own health and safety as well as the health and safety of others in the workplace.
- take reasonable care to make sure Council carries out, through the Chief Executive Officer, its general duties to ensure a safe workplace that is without risks to health by ensuring appropriate systems and policies are in place to manage those risks.
- consider any health and safety implications of Council decisions.

2.3.16 Interactions with others

Council is committed to treating all members of the community with dignity, fairness, objectivity, courtesy and respect.

As a Councillor I will:

- not engage in abusive, obscene or threatening behaviour in my dealings with members of the public, Council staff and Councillors.

- in considering the diversity of interests and needs of the municipal community, treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities.
- adhere to Council's Respectful Conduct Policy.

2.3.17 Fitness to carry out duty

Council is committed to providing and maintaining a work environment that is safe and without risks to health. Councillors must ensure that they are fit to conscientiously perform the role of a Councillor. I acknowledge that a physical or psychological impairment may impact on my fitness to carry out duty and, left unaddressed, may negatively affect the health and safety of myself and others. I also acknowledge that a range of factors and circumstances can impact on the satisfactory performance of my duties, including the consumption of alcohol and other drugs, even if legal and prescribed.

I will adhere to Council's Fitness to Carry Out Duty Policy.

2.3.18 Interacting with children

Council prides itself on being a child safe organisation and has zero tolerance for child abuse. Council adheres to the [Victorian Child Safe Standards](#) and related legislation which governs the protection of children and young people and deals with the failure to report harm, failure to protect and grooming offenses. Accordingly, I undertake to:

- maintain the highest standards of professional conduct in my attitude, behaviour and interactions with children and young people
- support and maintain Council's commitment to the safety and wellbeing of children and young people and including through any decision I participate in as a Councillor
- take all reasonable steps to protect children and young people from harm, including complying with Council's obligations under State and Federal child protection legislation.

2.3.19 Commitment to best practice

We acknowledge that in fulfilling the statutory requirements of our role, a shared understanding of our obligation and the practical ways that we perform our duties is necessary for good governance. To achieve this shared understanding, I commit to take all reasonable steps to become familiar with Councillor policies and protocols and participate in any reviews of these documents.

SECTION 3: CoM DISPUTE RESOLUTION

3.1 PURPOSE

This part describes the processes for Councillors who wish to report and resolve a dispute with another Councillor under the Code. Councillors recognise that the democratic process of local government involves holding, and expressing, different and sometimes opposing viewpoints. It is a normal, and vital, function of this process that these different views are shared in a considered and informed way. Although all Councillors strive to engage in positive, constructive and respectful interactions, conflict and/or disputes may arise.

All Councillors recognise that they hold an individual and collective responsibility to resolve disputes in a proactive, positive and courteous manner before they are escalated, to avoid such disputes threatening the effective operation of Council.

The primary purpose of an internal resolution procedure is to provide Councillors with support and mechanisms to resolve conflicts and disputes in a manner that enables them to move forward and establish and maintain effective working relationships. The procedure also provides avenues and guidance for escalating more serious issues and allegations where required.

This procedure:

- is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in council and committee meetings
- does not include a complaint made against a Councillor or Councillors by a member or members of Council staff, or by any other person, or a “disclosure” under the [Public Interest Disclosures Act 2012](#) .

3.2 SCOPE

This procedure operates alongside, and does not displace, any external avenues provided for by legislation for the reporting and resolution of issues and disputes. It should be read in conjunction with [the Act](#) which sets out avenues for reporting matters of Councillor misconduct and establishes external authorities to hear, investigate, prosecute and make findings of Councillor misconduct, serious misconduct and gross misconduct.

For the purposes of this part:

- 'Councillor Conduct Officer' refers to an appointee of the Chief Executive Officer who assists Council in the implementation and conduct of the internal arbitration process in the Code.
- This procedure does not deal with allegations of criminal misconduct as they are envisaged to be raised with Victoria Police or other relevant mechanisms.

- Nothing in this procedure prevents an individual Councillor with a specific issue or dispute from pursuing other avenues available to them under the law.

For the avoidance of doubt, a Councillor or member of the public may raise a formal complaint through any available channel external to Council as provided by law.

In particular, some allegations of Councillor misconduct under this Code may also constitute serious misconduct under the Act. In these instances, it is open to Council, a Councillor, or a group of Councillors, to make an application for a Councillor Conduct Panel. For allegations of gross misconduct, Council, a Councillor(s) or members of the public can raise complaints to the Local Government Inspectorate.

3.3 RESPONSIBILITIES

3.3.1 Lord Mayor and Deputy Lord Mayor

The Lord Mayor and Deputy Lord Mayor have a responsibility to:

- establish and promote appropriate standards of conduct
- support good working relations between Councillors
- support Councillors in dispute resolution.

3.3.2 Councillor Conduct Officer

The Councillor Conduct Officer has a responsibility to:

- assist Council in the implementation and conduct of the internal resolution procedure
- assist the Principal Councillor Conduct Registrar to perform the functions specified in section 149 of [the Act](#).

3.3.3 Chief Executive Officer

The Chief Executive Officer (CEO) has a responsibility to:

- ensure that support and assistance is available to all Councillors where it is required
- take all reasonable steps to ensure the consistent and accountable application of this policy across Council
- comply with all relevant legislation as the senior officer within Council administration.

3.3.4 Councillors

Councillors as defined in this section have a responsibility to

- co-operate with any investigation into, or arbitration of, a complaint made under this procedure; and
- maintain confidentiality regarding any complaint.

3.4 INFORMAL RESOLUTION BETWEEN PARTIES TO A DISPUTE

Before commencing a formal dispute resolution process, the Councillors who are parties to a dispute are encouraged to use their best endeavours to resolve their issue or dispute in a courteous and respectful manner between themselves, stop any behaviour that is causing issues, and to avoid the issue escalating and threatening the effective operation of Council.

Where the issue or dispute remains unresolved or where the circumstances make informal resolution inappropriate, the parties may resort to Council's internal dispute resolution processes set out below.

3.5 FORMAL DISPUTE RESOLUTION AND REPORTING

3.5.1 INTERPERSONAL DISPUTES

Interpersonal disputes between Councillors involve conflict where there may be a breakdown in communication, a misunderstanding, a disagreement between Councillors, or strained working relationships.

To report an allegation that a Councillor has contravened the Code in relation to an interpersonal dispute, a Councillor(s) must prepare a written application (the application) to the Lord Mayor, or where not appropriate (including where the Lord Mayor is involved in the allegation) the Deputy Lord Mayor or the Councillor Conduct Officer, requesting that the matter be dealt with under the formal dispute resolution procedure. Such written application should include the name of the other Councillor and the details of the issue or dispute.

The Lord Mayor (or Deputy Lord Mayor or Councillor Conduct Officer, where relevant), will notify the other Councillor(s) of the application, and provide them with a written copy of the request.

Approach to resolution

Where there is an interpersonal dispute between Councillors, they have the option of requesting:

- **Resolution discussion** - with one of the following in attendance and facilitating the meeting: Lord Mayor or Deputy Lord Mayor (see section 3.6.1 for detailed information)

- **Mediation** - with an external mediator, via an application to the Councillor Conduct Officer (see section 3.6.2 for detailed information)
- **Arbitration** - with an independent arbiter, via an application to the Councillor Conduct Officer (see section 3.6.3 for detailed information)

3.5.2 ALLEGATION OF CONDUCT IN BREACH OF CODE

An allegation that a Councillor has contravened the Code may include a failure to disclose a conflict of interest, breach of confidentiality, improper direction of staff, improper use of Council resources, or a breach of Council policy under the Code of Conduct. Such conduct may constitute improper conduct or misconduct under the Act.

To report an allegation that a Councillor engaged in conduct in breach of the Code a Councillor(s) must prepare an application to the Councillor Conduct Officer. The application must:

- specify the name of the Councillor who is the subject of the allegation or complaint
- specify the provision(s) of the Code and/or relevant Council policy or protocol that the allegation relates to
- include evidence in support of the allegation
- name the Councillor appointed to be their representative where the application is made by a group of Councillors
- be signed and dated by the Applicant or the Applicant's representative.

Approach to resolution

Where a Councillor raises an allegation that another Councillor has contravened the Code and they want it dealt with by way of an internal dispute resolution procedure, they have the option of requesting:

- **Arbitration** – where the allegation involves an allegation that the Councillor has breached the conduct standards, with an independent arbiter (see section 3.6.3 for detailed information)

3.5.3 ALLEGATION OF DISRESPECTFUL CONDUCT

An allegation that a Councillor has engaged in disrespectful conduct may involve behaviour such as unlawful discrimination, sexual harassment, harassment, victimisation or bullying, or other breach of the City of Melbourne's policy in regard to respectful conduct.

In instances where a Councillor has a complaint or concerns relating to disrespectful conduct they may make contact with the Independent Respectful Conduct Advisor (IRCA). The IRCA will support the Councillor(s) in clarifying their rights and obligations and making decisions about appropriate avenues to report the Councillor(s)' allegation of sexual harassment and other disrespectful conduct.

In order to report an allegation of disrespectful conduct against a Councillor, a Councillor(s) must prepare an application to the Principal Conduct Officer or the CEO. The application must:

- specify the name of the Councillor who is the subject of the allegation or complaint
- specify the provision(s) of the Code and/or Council's policies or procedures that the allegation relates to
- include evidence in support of the allegation
- name the Councillor appointed to be their representative where the application is made by a group of Councillors
- be signed and dated by the Applicant or the Applicant's representative.

Approach to resolution

Where a Councillor raises an allegation of disrespectful conduct against another Councillor they have the option of requesting:

- **Mediation** - with an external mediator (see section 3.6.2 for detailed information)
- **Arbitration** - where the allegation involves an allegation that the Councillor has breached the conduct standards, with an independent arbiter (see section 3.6.3 for detailed information)
- **Investigation** - by an independent investigator appointed by the CEO (see section 3.6.4 for detailed information)

3.6 DISPUTE RESOLUTION OPTIONS

3.6.1 RESOLUTION DISCUSSION

Where Councillors who are in dispute have not been able to resolve their dispute informally between themselves, a party may request in writing that the Lord Mayor or Deputy Lord Mayor (the 'Convenor') convene a confidential meeting of the parties to discuss the dispute.

The Councillor requesting the meeting is to provide the Convenor with the name of the other Councillor and the details of the dispute in writing. They should also notify the other Councillor of the request and provide a copy of the written request to them.

The Convenor or the Councillor Conduct Officer is to ascertain whether or not the other party is prepared to attend the meeting.

If the other Councillor is not prepared to attend the meeting, the Convenor is to advise the party seeking the meeting. No further action is required of the Convenor.

If the other Councillor consents to a meeting, the Convenor is to hold a confidential meeting of the parties.

Unless one or both parties are unavailable, this should be arranged within ten working days of receipt of the meeting request.

The Convenor may provide the parties with guidelines in advance of the meeting or at the meeting, to help facilitate the meeting.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened.

The role of the Convenor at the meeting is to assist the parties to resolve the dispute. In the process of doing this they may provide guidance about what is expected of a Councillor including in relation to the role of a Councillor under section 28 of [the Act](#) and the Code.

The Convenor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties and a copy kept by the Councillor Conduct Officer.

Where the dispute remains unresolved, a party may request mediation or arbitration.

3.6.2 MEDIATION

A Councillor or a group of Councillors may request that their dispute be referred to mediation. The mediation would be conducted by an external accredited mediator.

The party seeking the mediation is to notify the other party of the request and details of the dispute in writing at the same time that it is submitted to the Councillor Conduct Officer.

The Councillor Conduct Officer is to ascertain (in writing) whether or not the other Councillor is prepared to participate in the mediation. If the Councillor declines to participate in the mediation, they are to provide their reasons for not doing so in writing to the Councillor Conduct Officer. These reasons may be taken into account if the matter is subsequently the subject of an application for a Councillor Conduct Panel.

If the other party agrees to participate in mediation, the Councillor Conduct Officer is to advise the party seeking the mediation, the Lord Mayor and CEO.

The Councillor Conduct Officer will engage the services of an external mediator to conduct the mediation at the earliest opportunity.

All parties will cooperate with the dispute resolution process and provide reasonable assistance to the external mediator and the Councillor Conduct Officer.

If the parties cannot resolve the dispute at the mediation meeting, a further meeting may be convened with the consent of both parties.

The mediator is to document any agreement reached. Copies of the agreement are to be provided to both parties and the Councillor Conduct Officer.

Where the dispute remains unresolved, a Councillor may request the appointment of an arbiter.

3.6.3 INTERNAL ARBITRATION PROCESS

An internal arbitration involves a party (the Applicant) to a dispute requesting the Principal Councillor Conduct Registrar to appoint an impartial third party (the Arbiter) to make findings in the relation to allegations concerning another Councillor(s) (the Respondent) and whether they have engaged in misconduct under the Act.

An application for an internal arbitration process to make a finding of misconduct against a Councillor can be made by:

- Council following a resolution of Council; or
- a Councillor or a group of Councillors.

The application must:

- specify the name of the Councillor alleged to have breached the conduct standards.
- specify the clause of the conduct standards in the *Local Government (Governance and Integrity) Regulations 2020* that the Councillor is alleged to have breached.
- specify the misconduct that the Councillor is alleged to have engaged in that resulted in the breach of the conduct standards.
- include evidence in support of the allegation
- name the Councillor appointed to be their representative where the application is made by a group of Councillors
- be signed and dated by the Applicant or the Applicant's representative
- be made within three months of the alleged misconduct occurring
- be given to the Principal Councillor Conduct Registrar in the manner specified by the Principal Councillor Conduct Registrar in the manner specified by the Principal Councillor Conduct Registrar in any guidelines published under section 149(1)(c) of the Act.

After receiving an application the Councillor Conduct Officer will provide the application to the Councillor who is the subject of the application.

An Applicant may withdraw an application for arbitration at any time. Once an application has been withdrawn, the same or a similar application relating to the same issues or dispute in relation to the other Councillor cannot be resubmitted by the Applicant.

On receiving an application, the Principal Councillor Conduct Registrar will:

- advise the CEO (and the Lord Mayor as appropriate) of the application without undue delay
- identify an Arbiter to hear the application
- obtain from the Arbiter written advice that they have no conflict of interest in relation to the Councillors involved
- notify the parties of the name of the proposed Arbiter and provide them with the opportunity (two working days) to object to the person proposed to be the Arbiter
- consider the grounds of any objection and appoint the proposed Arbiter or identify another Arbiter
- provide a copy of the Application to the Arbiter as soon as practicable after the opportunity for the parties to object to an Arbiter has expired
- after consultation with the Arbiter, advise the Applicant and the Respondent of the time and place for the hearing
- attend the hearing(s) and assist the Arbiter in the administration of the process.

The Principal Councillor Conduct Registrar, after examining an application, will appoint an arbiter to Council to hear the matter if satisfied that:

- the application is not frivolous, vexatious, misconceived or lacking in substance.
- there is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct as specified in the application.

In identifying an Arbiter to hear the application, the Principal Councillor Conduct Registrar will select an Arbiter who is suitably independent and able to carry out the role fairly. The arbiter must be selected from a panel of eligible persons established by the Secretary to conduct an internal arbitration process.

The role of the Arbiter includes:

- consider an application alleging a contravention of the Code or breach of Council's policies or procedures
- make findings in relation to the application

- provide a written statement of reasons supporting the findings to the parties at the same time as providing the findings to Council
- recommend an appropriate sanction or sanctions where the Arbiter has found that a Councillor has contravened the Code or Council's policies or procedures.

In considering an application alleging a contravention, an Arbiter will:

- in consultation with the Councillor Conduct Officer, fix a time and place to hear the application
- authorise the Councillor Conduct Officer to formally notify the Applicant and the Respondent of the time and place of the hearing
- hold as many meetings as they consider necessary to properly consider the application. The Arbiter may also hold a directions hearing.
- have discretion to conduct the hearings as they deem fit while ensuring that the hearings are conducted with as little formality and technicality as is due and proper to consider the application
- ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter
- consider an application by a party to have legal representation at the hearing
- ensure that the rules of natural justice are observed and applied in the hearing of the application
- ensure that the hearings are closed to the public and held in confidence
- ensure that a Councillor who is a party to an internal arbitration process does not have a right to representation unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly
- conduct the hearings with as little formality and technicality as the proper consideration of the matter permits.

Where an application to have legal representation is granted by an Arbiter, the costs of the Councillor's legal representation are to be borne by the Councillor in their entirety.

An Arbiter:

- may find that a Councillor who is a Respondent to an application has not engaged in misconduct
- may find that a Councillor has engaged in misconduct
- may hear each party to the matter in person or solely by written or electronic means of communication

- is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit
- may at any time discontinue the hearing if the arbiter considers that the application is vexatious, misconceived, frivolous or lacking in substance or the applicant has not responded, or has responded inadequately, to a request for further information.
- will suspend the process during the election period for a general election
- must refer the matter in writing to the Principal Councillor Conduct Registrar if the arbiter believes that the conduct that is the subject of the application for an internal arbitration process appears to involve serious misconduct and would more appropriately be dealt with as an application to the Councillor Conduct Panel under section 154 of the Act.

The Arbiter is to provide a copy of his or her findings and the statement of reasons to:

- Council
- The applicant or applicants
- The Councillor who is the subject of the allegation.
- The Principal Councillor Conduct Registrar.

A copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after Council has received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting. If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted before submission to the Council meeting.

If an arbiter has made a finding of misconduct the arbiter may do any one or more of the following:

- direct the Councillor to make an apology in a form or manner specified by the arbiter
- suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month
- direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter
- direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter
- direct a Councillor to attend or undergo training or counselling specified by the arbiter

A Councillor will cooperate with the arbitral process and provide reasonable assistance to the Arbiter.

An application cannot be made for an internal resolution by arbitration during the election period for a general election. Any internal resolution procedure that is in progress is to be

suspended during the election period for a general election.

If the Respondent to an application for an arbitration is not returned to office as a Councillor in the election, the application lapses. If the Respondent is returned to office in the election, the application may resume if:

- the application was made by Council and Council so resolves; or
- the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- the Applicant (individual Councillor) is returned to office and wishes to proceed with the application.

3.6.4 FAILURE TO PARTICIPATE IN INTERNAL ARBITRATION PROCESS

A Councillor who does not participate in the internal arbitration procedure may be guilty of serious misconduct. [The Act](#) provides that serious misconduct by a Councillor means any of the following:

- failure by a Councillor to comply with the Council's internal arbitration process
- failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147
- the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor
- failure of a Councillor to comply with a direction of a Councillor Conduct Panel
- continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b) of the Act
- bullying by a Councillor of another Councillor or a member of Council staff;
- conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or member of Council staff.
- the disclosure by a Councillor of information the Councillor knows or should reasonably know, is confidential information;
- conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff.
- the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with the Act.

Allegations of serious misconduct are heard on application to the Principal Councillor Conduct Registrar.

3.6.5 INVESTIGATION

A Councillor or a group of Councillors may make a request of the CEO to initiate an investigation in respect to serious allegations of disrespectful conduct.

A confidential preliminary investigation takes place on a 'without admission' basis, independent of the Council, and is required to determine, to an appropriate level of proof, whether the conduct that is alleged did indeed take place and whether the conduct of a Councillor may present a serious risk to occupational health and safety.

Allegations that call into question the safety of the City of Melbourne workplace to a serious extent must be managed appropriately, and investigated if necessary, in order for the Council and the CEO to meet their corporate and individual OHS obligations.

Where the application concerns an allegation that a Councillor has engaged in disrespectful conduct against another Councillor, the application must:

- specify the name of the Councillor who is the subject of the allegation or complaint
- specify the provision(s) of the Code and/or Council's policies and procedures that the allegation relates to
- include evidence in support of the allegation
- name the Councillor appointed to be their representative where the application is made by a group of Councillors
- be signed and dated by the Applicant or the Applicant's representative.

The CEO may commence an investigation on receipt of an application from a Councillor. In instances where there may be serious concerns about a risk to the health and safety of a Councillor, Councillors, Council staff or the community, the CEO may also initiate the investigation at his or her own initiative.

After receiving an application from a Councillor or at the CEO's own initiative the CEO will obtain legal advice from Council's Legal Counsel or from Council's external legal advisor as to whether or not the complaint should be investigated.

The legal advice will consider the merits of the complaint and whether the allegation(s), if substantiated, would amount to a breach of relevant legislation, this Code or Council's policies or procedures. A confidential and legally privileged investigation will only be commissioned if it is in the best interests of Council. Matters which are frivolous, vexatious or that appear to be politically motivated will not be investigated.

If the legal advice recommends investigation of the complaint, the CEO will appoint a suitably qualified investigator to investigate the allegation(s). The investigator will adopt a fair process

and conduct a thorough and impartial investigation in accordance with natural justice principles.

Councillors will cooperate with the investigation and attend interviews with the investigator if requested. The Respondent(s) to the allegation(s) will be given an opportunity to respond to the allegation(s) and submit evidence in support of their response. A Councillor who is the subject of an independent investigation agrees, on a 'without admission' basis, to voluntarily take leave during the course of the investigation.

At the conclusion of the investigation, the investigator will provide their confidential written report (the investigation report) to Council's legal advisors including the investigator's findings in relation to the allegation(s). If an allegation is substantiated, the investigator will make a finding as to whether the substantiated conduct would amount to a breach of the Code or Council's policies or procedures.

Following the investigation, the CEO may, following the receipt of legal advice, take the following actions, including:

- recommending to Council that respectful conduct training is provided for Councillor(s), or that a Councillor make an apology in a particular form or manner to an individual or group
- recommending that Council make a public statement regarding the findings of the investigation report, and/or release a summary of the investigation report
- referring the findings to the Chief Municipal Inspector or other appropriate authority for further investigation.

SECTION 4: DEFINITIONS

Chief Executive Officer	The Chief Executive Officer of Council of the City of Melbourne
Chief Municipal Inspector	The Chief Municipal Inspector is responsible for investigating and prosecuting possible breaches and offences under the <i>Local Government Act 2020</i> , investigating allegations of Councillor misconduct, serious misconduct and gross misconduct, making an application for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor and making an application to the Victorian Civil and Administrative Tribunal for a finding of gross misconduct by a Councillor.
conflict of interest	<p>A Councillor has;</p> <ul style="list-style-type: none"> • a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person’s private interests could result in that person acting in a manner that is contrary to their public duty. • a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.
Conduct Standards	The standards of Councillor conduct prescribed under Schedule 1 to the <i>Local Government (Governance and Integrity) Regulations 2020</i> .
Councillor	All references to ‘Councillor’ include the Lord Mayor, Deputy Lord Mayor and elected members of the Melbourne City Council except as expressly provided.
Councillor Conduct Panel	A panel established under the <i>Local Government Act 2020</i> to hear applications and make findings of alleged misconduct or serious misconduct by a Councillor.
disrespectful conduct	‘Disrespectful conduct’ includes unlawful discrimination, sexual and other forms of harassment, victimisation, racial and religious vilification, and bullying.
employee	An employee of Council includes all members of staff, contractors and volunteers under the direct control or supervision of the City of Melbourne.
gross misconduct	‘Gross misconduct’ by a Councillor means behaviour that demonstrates that a Councillor is not of good character or is otherwise not a fit and proper person to hold the office of

Councillor, including behaviour that is sexual harassment and that is of an egregious nature.

improper conduct	‘Improper conduct’ includes a failure to disclose a conflict of interest, a breach of confidentiality, the improper direction or influence of staff, the improper use of Council resources, or a breach of Council policy under the Code of Conduct by a Councillor.
Independent Respectful Conduct Advisor (IRCA)	An independent external advisor available to Councillors to provide advice and assistance on matters relating to disrespectful conduct under the Code of Conduct including options for reporting and resolving complaints.
misconduct	Misconduct by a Councillor means any breach by a Councillor of the prescribed conduct standards included in this Councillor Code of Conduct
Councillor Conduct Officer	A person appointed by the Chief Executive Officer to assist Council in implementing its internal arbitration process.
Principal Councillor Conduct Registrar	The Principal Councillor Conduct Registrar receives applications for the establishment of Councillor Conduct Panels under the <i>Local Government Act 2020</i> .
Secretary	Secretary to the Department of Environment, Land, Water and Planning
serious misconduct	<p>Serious misconduct by a Councillor means:</p> <ul style="list-style-type: none"> • failure by a Councillor to comply with the Council’s internal arbitration process • failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147 • the failure of a Councillor to attend a Councilor Conduct Panel hearing in respect of that Councillor. • failure of a Councillor to comply with a direction of a Councillor Conduct Panel • continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b) of the <i>Local Government Act 2020</i>. • bullying by a Councillor of another Councillor or a member of Council staff; • conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or member of Council staff.

- the disclosure by a Councillor of information the Councillor knows or should reasonably know, is confidential information;
- conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff.
- the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with the *Local Government Act 2020*.

The Act

All references to 'the Act' are to the *Local Government Act 2020*.

APPENDIX 1: INCORPORATED RELEVANT DOCUMENTS

There are five incorporated documents that Councillors commit to adhering to in signing the Code. They are:

[Councillor Protocol](#)

[Councillor Expenses Policy 2020](#)

[Councillor Fitness to Carry Out Duty Policy](#)

[Councillor Occupational Health and Safety Policy](#)

[Councillor Respectful Conduct Policy](#)

APPENDIX 2: RELEVANT LEGISLATION

[Local Government Act 2020](#) (Vic)

[Local Government \(Governance and Integrity\) Regulations 2020](#) (Vic)

[City of Melbourne Act 2001](#) (Vic)

[Child Wellbeing and Safety Act 2005](#) (Vic)

[Equal Opportunity Act 2010](#) (Vic)

[Occupational Health and Safety Act 2004](#) (Vic)

[Public Interest Disclosures Act 2012](#) (Vic)

[Sex Discrimination Act 1984](#) (Cth)

[Victorian Charter of Human Rights and Responsibilities Act 2006](#) (Vic)

APPENDIX 3: COUNCILLOR CONDUCT STANDARDS

1 Treatment of others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—

(a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the *Equal Opportunity Act 2010*; and

(b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and

(c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and

(d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

2 Performing the role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor—

(a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and

(b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and

(c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and

(d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

3 Compliance with good governance measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following—

(a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;

(b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;

(c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;

(d) any directions of the Minister issued under section 175 of the Act.

4 Councillor must not discredit or mislead Council or public

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

(2) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

5 Standards do not limit robust political debate

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



Councillor Occupational Health and Safety Policy 2020

Adopted by Melbourne City Council on 15 December 2020

1. PURPOSE

The City of Melbourne is committed to providing and maintaining a safe and healthy environment for all persons associated with its operations, including Councillors, employees, contractors, residents and visitors. This applies to our work areas and our community spaces.

Our commitment is based on the principle that occupational health and safety is the most important of all our business objectives, the recognition that workplace injuries can be prevented, that everyone in the organisation should have clearly defined occupational health and safety responsibilities, and that meeting this commitment through the management of our stakeholder relationships is important.

The City of Melbourne Councillor Code of Conduct recognises the provisions of the *Occupational Health and Safety Act 2004* apply to Council and Councillors. Councillors have a role in

- protecting their own and others' health and safety in the workplace
- taking reasonable care through the Chief Executive to ensure a safe workplace.

The purpose of this policy is to

- outline Councillors' responsibilities under the *Occupational Health and Safety Act 2004* and *Occupational Health and Safety Regulations 2017*.
- set out Councillors' and the organisation's obligations in respect of occupational health and safety
- provide guidance to Councillors on how to respond in various scenarios with health and safety implications that may arise in a work setting.

The Chief Executive Officer from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

2. SCOPE

This policy applies to all Councillors at all times when undertaking their roles as elected officers of Melbourne City Council. Councillors within this context include the Lord Mayor and Deputy Lord Mayor. This policy applies to Councillors as individuals in the workplace and as office holders with particular legal responsibilities for occupational health and safety. Health and safety matters include those relating to hazards, risks and incidents, and their physical and as well as psychological consequences on individuals or the community.

The CEO has specific responsibilities to create a safe workplace under the *Occupational Health and Safety Act 2004*, and is so empowered to take certain actions that may impact on the ability of Councillors to perform particular functions in a particular way, consistent with those responsibilities.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct.

3. POLICY

Councillors have agreed, through their Code of Conduct, that Council is committed to providing and maintaining a safe workplace for all and recognises the provisions of the *Occupational Health and Safety Act 2004* apply to Council and Councillors.

4. DEFINITIONS

CEO means the Chief Executive Officer of City of Melbourne.

CoM means the City Of Melbourne.

Council means the Melbourne City Council.

Support Officer means a member of the Councillor Support Team or a member of the Lord Mayor's Office.

Executive Officer Councillor Support is the people leader for the Councillor Support Team.

First aid in the workplace is the provision of emergency treatment and life support for people suffering injury or illness at work".

Hazard means a condition or situation which has the potential to cause injury (physical or psychological).

Immediately notify means as soon as a person becomes involved or aware of the incident, near miss or hazard.

Incident means an event or sequence of events resulting in loss of control over a hazard. Such an incident may result in injury to an employee, Councillors, contractor, volunteer or visitor.

Medical treatment means is treatment required without delay after an incident is termed 'immediate medical treatment'. *The Medical Treatment Act 1988* defines medical treatment as the carrying out of:

- (a) an operation;
- (b) the administration of a drug or other like substance; or
- (c) any other medical procedure – but does not include palliative care.

Medical treatment does not include procedures carried out for diagnostic purposes only.

Near miss means an incident/event which had the potential to cause personal injury or damage to equipment/machinery, property or facilities.

OHS means Occupational Health and Safety

OHSMS is a combination of the planning and review, the management organisational arrangements, the consultative arrangements, and the specific program elements that work together in an integrated way to improve health and safety.

Councillor Conduct Officer is a person appointed by the Chief Executive Officer to assist Council in implementing its internal arbitration process.

Workplace means any place where a person attends for the purpose of carrying out any functions in relation to his or her employment, occupation, business, trade or profession and need not be a person's principal place of business or employment.

5. RESPONSIBILITIES

Each Councillor has agreed that they understand that Occupational Health and Safety is a shared responsibility.

Responsibilities relating to this policy are as follows:

Councillors will:

- Make themselves familiar with the provisions of this policy and procedure, raise any concerns or questions about the policy's coverage or application and adhere to the policy.
- Take reasonable care to protect their own health and safety, as well as the health and safety of others in the workplace.
- Attend and participate in all CoM required training, to maintain understanding of the duties and obligations imposed by the *Occupational Health and Safety Act 2004* and their application to the broad range of activities undertaken by CoM.
- Comply with the Councillor Occupational Health and Safety Policy and associated reporting procedures.
- Participate where required in the resolution of safety issues.
- Consider any health and safety implications for Council decisions.

The City of Melbourne will:

- As far as reasonably practicable, provide a safe workplace that is without risks to the health of Councillors performing their civic duties, by ensuring appropriate systems and policies are in place to manage those risks.
- Proactively monitor the workplace to identify hazards, assess risks and implement control measures where it is reasonably practical to do so.
- Take all reasonable steps to ensure organisational compliance to the organisation's OHS Policy and the continuous improvement of the CoM OHS Management System.
- Provide training opportunities to assist Councillors to achieve and maintain understanding of the duties and obligations imposed by the *Occupational Health and Safety Act 2004* and their application to the broad range of activities undertaken by CoM.
- Adhere to all principles and lawful requirements of the *Workplace Injury Rehabilitation and Compensation Act 2013* following any work related injury.

6. INCIDENT AND HAZARD REPORTING PROCEDURES

All hazards, near misses and incidents that occur as a result of Councillors conducting the business of Council, acting as a representative of Council, including as part of attending Council related functions, during or outside normal Council hours must be reported.

In most cases where Councillors notice something unsafe, it will be appropriate for them to notify a Support Officer. The Support Officer will complete an online hazard/incident report in accordance with CoM's Incident/Hazard Reporting and Investigation Policy and Procedure.

The Executive Officer Councillor Support will then conduct an incident investigation and risk assessment and document any actions to be taken to control the risk. Alternatively, the Executive Officer Councillor Support may refer the matter to another City of Melbourne manager for investigation and action.

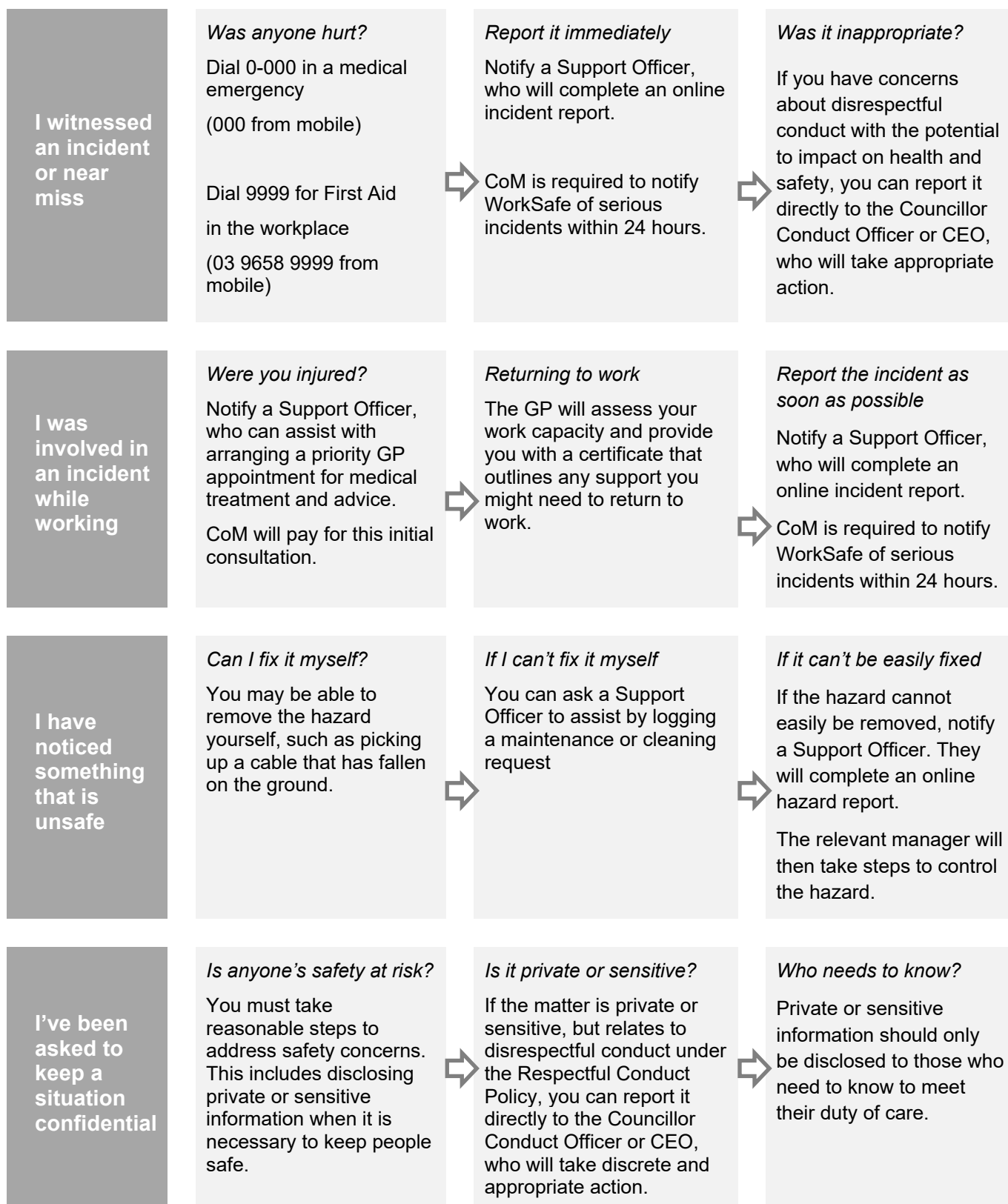
If the issue relates to potential psychological injury arising from disrespectful conduct under the Councillor's Respectful Conduct Policy, the issue must be reported, and it may be more appropriate to report the matter to the Councillor Conduct Officer or CEO. If the CEO has serious concerns about a risk to the health and safety of a Councillor, Councillors, Council staff or the community, the CEO has overall accountability to take appropriate action to ensure the safety of all.

6.1 Incident close-off and report-back

Depending on the issue, the Support Officer, Executive Officer Councillor Support, Councillor Conduct Officer or CEO will notify the Councillor of the outcome of hazard or incident once addressed.

7. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.



8. RELATED POLICIES AND RESOURCES

- City of Melbourne Councillor Code of Conduct
- City of Melbourne Councillor Fitness to Carry Out Duty Policy
- City of Melbourne Respectful Conduct Policy
- *Occupational Health and Safety Act 2004*



Councillor Respectful Conduct Policy 2020

Adopted by Melbourne City Council on 15 December 2020

1. PURPOSE

Councillors through their Code of Conduct have committed to work together with one another in a respectful and constructive manner to achieve the goals and vision for the city. Councillors have further acknowledged they have been elected by the community to a position of significant responsibility with the expectation that they will act in accordance with accepted values of our society.

The purpose of the Councillor Respectful Conduct Policy 2020 is to establish a framework to identify and manage inappropriate conduct by Councillors that falls short of this standard.

This policy reflects the obligations on Council to promote and support a workplace that is free from unlawful discrimination, sexual harassment, victimisation, racial and religious vilification and workplace bullying and comply with applicable laws contained in relevant equal opportunity legislation.

The Chief Executive Officer (CEO) from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

2. SCOPE

This policy applies to Councillors with respect to their conduct towards fellow Councillors and Council employees. For the avoidance of doubt, this policy applies equally to all Councillors, including the Lord Mayor and Deputy Lord Mayor.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct, nor any legislation setting out alternative avenues that may be available to a Councillor or Councillors in respect of matters mentioned in this policy.

The processes outlined in this policy may run concurrently with any processes set out in the Councillor Code of Conduct, the *Local Government Act 2020* and any other legislation.

Council has separate policies regarding unlawful discrimination, sexual harassment, victimisation, racial and religious vilification and workplace bullying that apply to Council employees.

This policy applies when Councillors are conducting the business of Council or acting as a representative of Council, irrespective of location, during or outside normal Council hours.

This policy sits independently of, and neither changes nor detracts from, the Meetings Local Law and Meeting Procedures Code.

3. POLICY

The Council is committed to upholding the principle of equal opportunity by treating all people with dignity and respect.

Council will not tolerate disrespectful conduct by Councillors, namely conduct that would amount to unlawful discrimination, harassment (including sexual harassment), victimisation, racial and religious vilification or workplace bullying if the Councillor were an employee of Council.

These terms are explained below.

3.1 UNLAWFUL DISCRIMINATION

Unlawful discrimination means direct or indirect discrimination on the basis of a protected attribute.

Protected attributes are specifically listed in anti-discrimination legislation.

Protected attributes include the following:

- Age
- Breastfeeding
- Disability or impairment
- Employment activity
- Gender identity
- Industrial activity
- Intersex status
- Lawful sexual activity
- Marital or relationship status
- Status as a parent or carer
- Physical features
- Political belief or activity
- Pregnancy
- Race
- Religious belief or activity
- Sex
- Sexual orientation
- Association with someone who is identified by a protected attribute.

Direct discrimination occurs if a person treats another person with a protected attribute unfavourably because of that protected attribute.

Some examples of direct discrimination are:

- Not offering computer training to an older Councillor because of his age and a view that they will not be involved in Council for much longer.
- Excluding a Councillor from participation on a Committee because of a protected attribute, for example, their religious belief or age.

Indirect discrimination occurs if a person imposes a requirement, condition or practice that disadvantages a person with a protected attribute and that requirement, condition or practice is not reasonable.

Some examples of indirect discrimination are:

- Holding a Council team building event at a sporting venue that does not permit access or participation by a Councillor with a disability.
- Making it a requirement that Councillors be members of a political party in order to be a member of a committee.

Unlawful discrimination can occur even if you do not intend to discriminate.

3.2 HARASSMENT

Harassment occurs when someone engages in conduct that would make a reasonable person feel offended, humiliated or intimidated because of their age, race, religion, sex or some other attribute specified under anti-discrimination legislation.

Some examples of harassment are:

- Ageist or racist comments or jokes about another Councillor
- Isolating a Councillor because they have a disability.

A person's intention or motive for conduct that constitutes harassment is irrelevant to whether unlawful harassment has taken place.

3.3 SEXUAL HARASSMENT

Sexual Harassment means unwelcome conduct of a sexual nature where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated. The intention of the harasser is irrelevant.

Some examples of sexual harassment are:

- Repeatedly asking another Councillor to go on a date when that person has already declined.
- Sending an email to another Councillor with sexually explicit images attached.

3.4 RACIAL OR RELIGIOUS VILIFICATION

Racial or religious vilification means conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, a person or group of persons on the basis of their race or religious belief. Serious racial or religious vilification involves a threat to harm another person or their property, and is a criminal offence.

Some examples of racial or religious vilification are:

- Sending an email to your colleagues that ridicules Muslims or Christians.

- Making threats to harm a colleague because he is a Muslim (serious religious vilification).

A person's intention or motive for conduct that constitutes racial or religious vilification is irrelevant to whether such vilification has taken place.

3.5 VICTIMISATION

Victimisation means unfavourable treatment of a fellow Councillor who reports or complains about any of the conduct covered by this policy.

Some examples of victimisation are:

- Denying a Councillor access to information shared with other Councillors because she has made a complaint about unlawful discrimination.
- Excluding or isolating a Councillor because he has made a complaint of sexual harassment against one of your Councillor friends.

3.6 BULLYING

Bullying is repeated unreasonable behaviour directed towards another Councillor or member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor or member of Council staff.

'Unreasonable behaviour' is behaviour that a reasonable person, having regard to all the circumstances, believes or expects would victimise, humiliate, undermine or threaten another person.

A broad range of behaviours can be considered to be bullying. Some examples of behaviour that may constitute bullying are:

- verbal abuse, insults or name-calling
- continually making jokes about a person, or singling out one person for remarks more often than others in a group
- personal attacks, threats, intimidation and misuse of power
- deliberate exclusion or isolation
- deliberately withholding information from someone where that information is essential to their ability to perform their work effectively.

A single incident of unreasonable behaviour, while not bullying, may still create a risk to health and safety and will not be tolerated by Council.

4. RESPONSIBILITIES

4.1 Councillors will:

- treat all people with dignity and respect.
- report any unacceptable conduct, consistent with the Councillor Code of Conduct.
- ensure their behaviour is appropriate at all times and in accordance with the City of Melbourne's values.
- cooperate with any investigation into, or arbitration of, a complaint made under this policy.
- other than reporting to appropriate people as set out in the Councillor Code of Conduct, maintain confidentiality regarding any complaint raised under this policy, unless the Councillor has been given explicit permission by the individual bringing the complaint or they are legally obliged to provide information to appropriate authorities.
- not make or cause to make a vexatious, false or frivolous complaint.
- maintain a professional and safe work environment free from unacceptable conduct
- take reasonable and proportionate measures to prevent unacceptable conduct as far as possible.

4.2 The Councillor Conduct Officer and Chief Executive Officer will:

- assist Council in the implementation of the following procedure
- ensure that support and assistance is available to all Councillors where it is required
- apply natural justice principles in addressing any allegation of disrespectful conduct.

5. PROCEDURE FOR DEALING WITH ALLEGED BREACHES OF THIS POLICY

Councillors are expected to use their best efforts to resolve disputes in a respectful and courteous manner. If a Councillor believes that this policy has been breached, the Councillor should adopt the steps set out in section 3 of the Councillor Code of Conduct.

5.1 OTHER RESOURCES AND SUPPORT

INDEPENDENT RESPECTFUL CONDUCT ADVISOR

At any time when a Councillor has a complaint or concerns relating to a breach under this policy they may also make contact with the Independent Respectful Conduct Advisor (IRCA).

The IRCA will support Councillors in clarifying their rights and obligations and making decisions about appropriate avenues to report complaints under this policy. Whilst the IRCA is retained by Council, the Councillor can meet with them on a confidential basis.

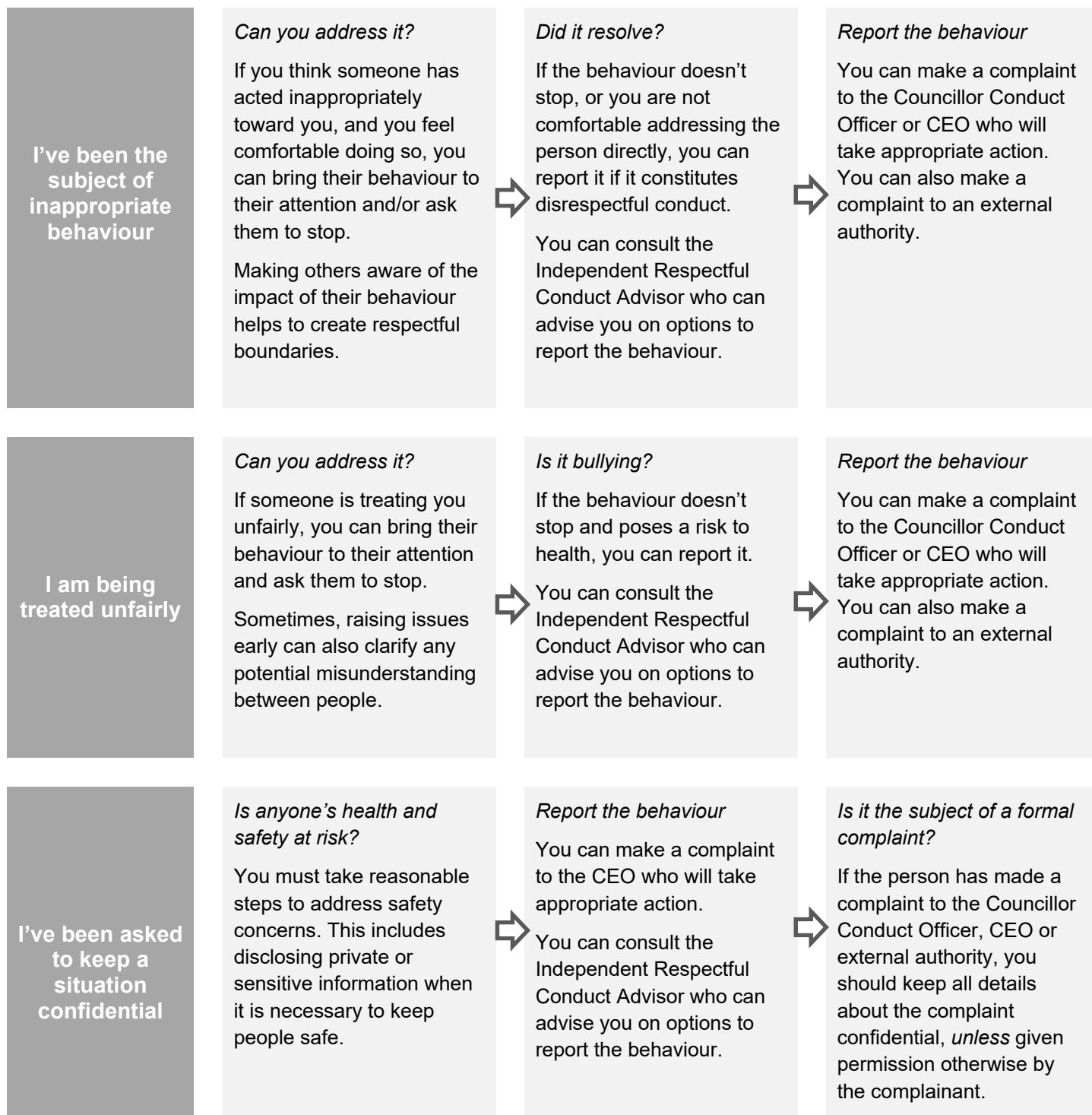
If the IRCA believes an issue has been brought to their attention that creates a risk to the health and safety of a Councillor or another person, they may raise the matter with the CEO on a confidential basis.

EMPLOYEE ASSISTANCE PROGRAM

Councillors will have access to the Employee Assistance Program as ordinarily extended to City of Melbourne employees should they require general counselling support in relation to any matters covered by this policy.

6. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.



7. RELATED POLICIES AND RESOURCES

City of Melbourne Councillor Code of Conduct

City of Melbourne Councillor Occupational Health and Safety Policy

Charter of Human Rights and Responsibilities Act 2006 (Vic).

Age Discrimination Act 2004 (Cth)

Disability Discrimination Act 1992 (Cth)

Equal Opportunity Act 1995 (Vic) and its successor the *Equal Opportunity Act 2010* (Vic)

Fair Work Act 2009 (Cth)

Fair Work Regulations 2009 (Cth)

Human Rights and Equal Opportunity Commission Act 1986 (Cth)

Human Rights and Equal Opportunity Commission Regulations 1998 (Cth)

Privacy and Data Protection Act 2014 (Vic)

Local Government Act 2020 (Vic)

Local Government (Governance and Integrity) Regulations 2020 (Vic)

Occupational Health and Safety Act 2004 (Vic)

Public Administration Act 2004 (Vic)

Racial Discrimination Act 1975 (Cth)

Racial and Religious Tolerance Act 2001 (Vic)

Sex Discrimination Act 1984 (Cth)

Workplace Gender Equality Act 2012 (Cth)



Councillor Fitness to Carry Out Duty Policy 2020

Adopted by Melbourne City Council on 15 December 2020

1. PURPOSE

The City of Melbourne is committed to enabling Councillors to fulfil their duties to the best of their abilities to ensure that the functions of the Council are achieved in accordance with legislative requirements and good governance.

Where a Councillor has known disabilities, the City of Melbourne will make all reasonable and necessary adjustments to support them in undertaking their role. This is not considered to be related to issues of fitness to carry out duty.

Councillors have also committed to take reasonable care to protect their own health and safety as well as the health and safety of others in the workplace.

The purpose of this policy is to:

- make Councillors aware of when and how to access support when they cannot fulfil their duties to the best of their abilities
- outline factors and circumstances which may impact a Councillor's fitness to perform all duties while in the role of Councillor
- set out the obligations of Councillors to make confidential disclosures regarding impacts on their abilities to undertake all duties
- set out the obligations of the Chief Executive Officer (CEO) on dealing with fitness for duty issues impacting a Councillor and/or other persons in the workplace.

2. SCOPE

This policy applies to all City of Melbourne Councillors, including the Lord Mayor and Deputy Lord Mayor. This policy applies to all issues which may impact on a Councillor's fitness to perform duties while undertaking the role of Councillor, including without limitation physical and psychological conditions and substance abuse.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct.

Where a Councillor is not fit to perform their duties, they may advise the CEO as set out in this policy and supporting arrangements will be made to either support the Councillor to continue in the role or enable them to return to their role as quickly as possible.

In cases where a Councillor chooses not to disclose their unfitness and to continue to undertake their duties, this may constitute a health and safety risk for both the Councillor and others. In those situations it may then be incumbent on the CEO to take steps in accordance with their legal obligations to manage the situation.

The CEO from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

3. FITNESS FOR DUTY AND DISCLOSURE OBLIGATIONS

3.1 Identifying a fitness for duty concern

A person is fit for duty when they are in a mental and physical state of health which allows them to competently perform the inherent or genuine and reasonable requirements of their role and in a manner which does not compromise or threaten the safety or health of themselves or others.

Common indicators of an issue concerning or impacting fitness may include:

- impaired physical function, including mobility
- unexplained or excessive absences or unreasonable habitual lateness
- problems with memory, speech or co-ordination
- disproportionate or excessive aggressive outbursts towards another person or in response to any discussion
- unusual drowsiness or fatigue
- concerning physical changes.

Councillors acknowledge that a physical or psychological impairment may impact on their fitness to carry out duty.

3.2 Consumption of alcohol and drugs

Councillors acknowledge that consumption of alcohol and other drugs (even if legal and prescribed), may impact on the satisfactory performance of their duties. Further, such activity may negatively impact on the working environment and affect other persons, including other Councillors, Council staff and the community.

Substance abuse which impacts on the ability of a Councillor to satisfactorily undertake duties as part of their role or which poses risks to others may result in the Councillor being considered to be unfit to carry out duty.

3.3 Other factors and circumstances impacting fitness

Councillors acknowledge that there are a range of other things that may impact on fitness for duty, including fatigue, general physical health, or specific health situations. This could mean a Councillor's physical or mental health is temporarily affected, or affected over a longer period of time, such that their ability to function in the role may be compromised.

3.4 Definitions

Alcohol	means ethyl alcohol or ethanol
Drug	means any substance that may result in psychological or behavioural changes that have the potential to reduce a person's fitness to perform duties and impact on performance and safety.
Duty	means the performance of the role and functions of a Councillor or Council as prescribed under the <i>Local Government Act 2020</i>
Substance	includes alcohol, intoxicating products, prescription and non-prescription medication, legal/illegal/illicit drugs whether naturally occurring or synthetic

4. MANAGING FITNESS FOR DUTY

4.1 Confidentiality and privacy

Subject to law, the personal and medical issues impacting a Councillor's fitness to carry out duty, and any disclosure or referral made to the CEO under section 4.2 or 4.3 of this policy, will be kept confidential.

The Privacy and Data Protection Act, the *Health Records Act 2001* and the *Local Government Act 2020* will apply to all documentation and information provided by a Councillor or developed in the course of any disclosure into a matter concerning the fitness to carry out duties of a Councillor. Such documentation or information may be provided to external advisors and agencies on a need to know basis or in accordance with law, and may be subject to obligations of confidentiality.

All Councillors should be mindful of any associated reputational damage to the individual Councillor where there are concerns around fitness to carry out duty. In line with the principle of respect outlined in the Councillor Code of Conduct, no public communications on such matters are permitted.

4.2 Disclosure by Councillor

Where a Councillor considers they may not be fit to undertake their duties, or their fitness has been restricted, or on professional medical advice their fitness has the potential to become restricted, they should notify the CEO.

In consultation with the Councillor, the CEO will put in place necessary and appropriate arrangements and safeguards to allow the Councillor to continue performing their duties.

Depending on the nature of the issue, and the risks to health and safety, arrangements need to be determined on a case by case basis.

4.3 Disclosure about perceived impacts on another Councillor's ability to perform duty

As part of Councillors' commitment to protect their own and each other's health and safety, a Councillor may disclose information to the CEO about concerns regarding perceived impacts on another Councillor's ability to perform their duties. Proactive disclosure supports the CEO to discharge their duty of care around the health and safety of all individuals in the workplace.

Following receipt of a disclosure, the CEO will decide whether the issue needs to be followed up with the Councillor concerned and managed in accordance with this policy.

4.4 Assistance, external advice and referral

In assisting the Councillor whose fitness for duty may be impaired, the CEO may consider any of the following options in consultation with the Councillor:

- provision of ergonomic and rehabilitation resources
- additional support provided by administrative staff as required
- a medical assessment (subject to Councillor consent) and/or return-to-full duties plan
- access to counselling.

In consultation with the Councillor concerned and without disclosing their circumstances, the CEO may discuss with the Lord Mayor (or Deputy Lord Mayor) an adjustment of the Councillor's upcoming duties, or distribution of their duties to other Councillors.

If the Councillor's circumstances give rise to an occupational health and safety risk, then the following section applies.

5. COMPLIANCE WITH ALL LEGISLATIVE AND CODE OF CONDUCT OBLIGATIONS

5.1 Occupational Health and Safety obligations

City of Melbourne is committed to providing and maintaining a work environment that is safe and without risks to health. The CEO is required to put in place and maintain policies and procedures to ensure a safe environment for Councillors and Council staff to carry out their duties, and for third parties both on Council premises and coming into contact with Council's operations and activities.

Where a situation arises where a Councillor is unfit to perform the duties associated with their role, the CEO is required to take all necessary steps in accordance with occupational health and safety legislation and Council's occupational health and safety policies.

In the event that the CEO becomes aware of a situation where, in their opinion, a Councillor's lack of fitness to perform duties poses serious risks to health and safety, Councillors agree that the CEO will take appropriate action to deal with such matters.

Such appropriate steps to reduce any health and safety risk may include, for example:

- restricting the use of Council resources by a Councillor (without curtailing the rights and entitlements granted to Councillors under *the Local Government Act 2020* and *City of Melbourne Act 2001*)
- recommending the Councillor take a temporary leave of absence
- referring the Councillor to appropriate authorities where the circumstances involve broader contravention of the Councillor Code of Conduct.

6. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.

<p>I injured my leg</p>	<p><i>Will this impact your ability to carry out duties?</i></p> <p>You must consider whether an injury sustained at work or outside of work has the potential to impact on your performance.</p> <p>If so, you must report it to the CEO.</p>	<p><i>Report it immediately</i></p> <p>The CEO will assist you to rearrange your workload, reprioritise your duties or request you to seek specialist advice about your fitness.</p>	<p><i>If you take leave</i></p> <p>In some circumstances, where a fitness issue requires you to take temporary leave of absence, the organisation will make appropriate arrangements on your return to work in accordance with its OHS Policy.</p>
<p>I am taking prescription medication which makes me feel faint</p>	<p><i>Will this impact your ability to carry out duties?</i></p> <p>Feeling faint has negative impacts on your capacity as well as your safety at work.</p> <p>If there are potential impacts from the medication on your ability to undertake duties, you should inform the CEO.</p>	<p><i>Disclose it to the CEO</i></p> <p>The CEO will discuss potential options with you to enable you to undertake your duties while minimising risks to your safety. This may include reducing or rearranging your workload, taking temporary leave, and ensuring there is adequate staff support for you.</p>	<p><i>If there is a health and safety risk</i></p> <p>If there is an immediate health and safety risk, the CEO is obliged to take appropriate intervention.</p> <p>Prolonged symptoms of feeling faint may prompt the CEO to require you take leave and/or urge to consult your medical practitioner to review your medication.</p>
<p>I have noticed another Councillor often shows up smelling of alcohol</p>	<p><i>Is their fitness a concern?</i></p> <p>Are there outward serious or persistent signs that the person is having difficulty performing their usual duties?</p>	<p><i>Is there a health and safety risk?</i></p> <p>If this poses a potential risk to the health and safety of the Councillor and/or others, it must be reported to the CEO immediately.</p>	<p><i>Disclose it to the CEO</i></p> <p>Depending on the circumstances, and whether they have serious concerns about health and safety, the CEO may follow up with the Councillor and/or intervene.</p>
<p>I have noticed another Councillor isn't their usual self</p>	<p><i>Is their fitness a concern?</i></p> <p>Are there outward serious or persistent signs that the person is having difficulty performing their usual duties?</p>	<p><i>Disclose it to the CEO</i></p> <p>The CEO will decide whether the matter needs further follow up and whether the issue should be discussed with the Councillor concerned.</p>	<p><i>If there is a health and safety risk</i></p> <p>The CEO will take appropriate steps to address risks to anyone's health and safety. This may include requiring the Councillor to refrain from specific activities.</p>

7. RELATED POLICIES AND RESOURCES

City of Melbourne Councillor Code of Conduct

City of Melbourne Occupational Health and Safety Policy

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020

Occupational Health and Safety Act 2004

Workplace Injury Rehabilitation and Compensation Act 2013

Equal Opportunity Act 2010

Disability Discrimination Act 1992

Privacy and Data Protection Act 2014

Health Records Act 2001



Councillor Protocol

As adopted by Council on 15 December 2020

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1. Purpose

The Councillor Protocol (the Protocol) provides a set of understandings on the individual and collective roles and responsibilities of Councillors. The Protocol guides Councillors in the conduct of their role, interaction with each other and Council officers and covers processes supporting decision-making and city representation roles of Councillors.

2. Scope

The Protocol

- seeks to complement the function and conduct expectations of Councillors as described in the *Local Government Act 2020*
- recognises the role of Lord Mayor as principal spokesperson for Council as described in the *Local Government Act 2020*.

The commitment by Councillors to the expectations in the Protocol is embedded in the Councillor Code of Conduct 2020.

3. Roles and responsibilities

3.1. Lord Mayor

The statutory provisions do not fully define the role and function of the Lord Mayor. As with many other aspects of government, it is tradition, convention and practice that broadens and better defines the role of the Lord Mayor. The Lord Mayor's role has three key functions as chief representative and principal spokesperson: to lead the Council in its decision-making, represent the views of Council and its community and act as ceremonial head at events.

3.2. Deputy Lord Mayor

The Deputy Lord Mayor has a leadership and representational role in conjunction with the Lord Mayor. Due to the large number of Mayoral engagements and commitments, the Deputy Lord Mayor is expected to assist in representing the Lord Mayor at various functions and meetings and, upon request from the Lord Mayor, with principal spokesperson responsibilities.

The Deputy Lord Mayor will assume the role of Acting Lord Mayor during periods of absence of the Lord Mayor or at the request of the Lord Mayor.

3.3. Councillors

3.3.1. General

In fulfilling the legislative role of Council, all Councillors shall be guided by the principles in the Council's Code of Conduct. In carrying out their role, Councillors shall:

- provide civic leadership and contribute effectively to the interests and advancement of the Capital City and its community
- contribute to the strategic vision for the City as a Capital City

- participate in deliberations of Committee and Council.

3.3.2. Councillor - Representing the Lord Mayor

Councillors will represent the Lord Mayor at functions and meetings where the Lord Mayor and Deputy Lord Mayor are unavailable. Allocation of representation roles will be made based on portfolio responsibilities of Councillors (see section 3.4 for further protocol).

3.3.3. Councillor - Acting Chair

In exceptional circumstances where both the Lord Mayor and Deputy Lord Mayor are absent from office, the Council or Future Melbourne Committee may appoint an Acting Chair for those segments normally chaired by the Lord Mayor.

3.4. Portfolio Lead

3.4.1. Overview

Establishment of the policy and strategic direction of the City requires Councillors and management to work together to deliver best possible outcomes for the community. To facilitate this process, Council will allocate to Councillors areas of portfolio responsibility. As Portfolio Leads, Councillors will fulfil leadership roles in decision-making, community engagement and city representation areas outlined below.

3.4.2. Committee Business

As a Portfolio Lead, the Councillor shall:

- assist the Lord Mayor and Deputy Lord Mayor, as Chair and Deputy Chair, in the efficient conduct of business undertaken in public and closed sessions of the Future Melbourne Committee meetings
- represent the decisions and views of the Committee on matters which relate to the Committee's responsibilities in line with media protocols outlined in section 5.1
- undertake a role in relation to emerging issues, challenges and opportunities relevant to the portfolio area. This may involve liaison and consultation with key stakeholders on areas that impact on the development and review of Council priorities and programs
- lead discussion on areas within portfolio responsibilities and assist other Councillors in developing the fullest possible understanding of matters being put to the Council. This includes keeping other Councillors updated through avenues such as Councillor Forum and Councillor-Only Session.

3.4.3. City Representation as Portfolio Lead

In line with protocols outlined in section 5 that acknowledge the role of the Lord Mayor and Deputy Lord Mayor, a Portfolio Lead will also play a key role in representing the City of Melbourne.

A Portfolio Lead has an integral role in communicating an agreed Council position and sharing of information and insight leading to that position.

If a Portfolio Lead has a personal view which differs from an agreed Council position, he/she will ensure that clarity between the two is provided when making comment.

When commenting or engaging on matters of upcoming, but yet to be determined, Council business, a Portfolio Lead will play a facilitation role by providing information about the process and encouraging input without prejudging an outcome.

- **Community Leadership and Engagement:** Leadership in liaison and consultation is an important part of a Portfolio Lead role. As such, a Portfolio Lead shall:
 - act as a focus for liaison between the Council, community and external organisations on significant issues relating to the portfolio area. The Portfolio Lead shall take the lead on such issues raised with Councillors and where necessary shall ensure fellow Councillors and Council officers are informed and consulted in efforts to provide positive outcomes for the community and the city in general and be given the opportunity of playing a lead role in community engagement activities that fall within portfolio areas of responsibility. These activities will facilitate the development of, and communication to, the community of Council policies, strategies and programs
 - be given the opportunity of participating (with the Lord Mayor and Chief Executive Officer) in meetings between Council and Ministers at State and Federal levels of government on major policy issues or decisions
 - be engaged by Council officers when significant meetings including stakeholders are planned in order to better judge whether Councillor involvement is desirable.
- **Media Spokesperson Roles:** A Portfolio Lead will be the authorised spokesperson when the Lord Mayor is not the spokesperson, in line with the media protocols outlined in section 5.1.
- **Events, Functions and Delegations:** A Portfolio Lead will, in line with representation protocol outlined in section 5.4, be given the opportunity of representing Council at a range of cultural, community, business and sporting events in Melbourne. These will involve those organised or supported by the City of Melbourne and those being staged by external sources. Many of these will involve speaking opportunities. A Portfolio Lead may also be required to represent Council at forums, meetings or conferences at a national and international level on key issues relating to portfolio responsibilities. Such representation will be in accordance with travel guidelines contained in the Council Expenses Policy.
- **Advisory Committees and External Organisations:** The Councillor representing Council on an advisory committee or external organisation will normally be the relevant Portfolio Lead.

4. Informed decision making

4.1. Briefings to Councillors

4.1.1. Provision of information and advice by management

Information is made available on a daily basis that will assist the representation and decision-making roles of Councillors. To obtain information that is up-to-date and offered in the right context, liaison should occur with the Chief Executive Officer or a member of the Management Leadership Team (MLT). Speaking directly to Council officers below MLT level without the authorisation of the appropriate MLT member may result in Councillors receiving advice that has not been formally endorsed by management. Exceptions are made for Councillor Liaison staff and other designated media and planning staff that have been nominated by their Director who for operational reasons require direct contact with Councillors.

The provision of information and advice to Councillors operates on the principle that information provided to one Councillor should generally be made available to all Councillors.

As referred to in the Councillor Code of Conduct, the *Local Government Act 2020* provides that individual Councillors cannot direct or attempt to influence Council officers in the performance of their duties. Councillors

as a group make decisions and this is done through a resolution adopted at a special Committee or Council meeting.

Councillors should refrain from publicly criticising Council officers in a way that casts aspersions on their professional competence or credibility. Councillors should advise the Chief Executive Officer in a timely fashion of any concerns that a Council officer has acted contrary to a formal Council policy or decision.

In addition to statutory provisions regarding confidential information, Councillors must not release to an external person or organisation any documents or information that the Chief Executive Officer or member of the MLT has formally requested be kept confidential or that has been marked confidential.

4.1.2 Councillor Forum

The Chief Executive Officer and relevant members of the administration will provide a regular Councillor Forum to impart information and allow for discussion. Matters for consideration will usually include briefings on the more significant matters due to come before a meeting of Council or a Committee, briefings on significant matters by external parties, and briefings on the progress of significant Council projects, finances, strategies and plans. The Chief Executive Officer will set the agenda for the Councillor Forum, but will consider suggestions from the Lord Mayor, Deputy Lord Mayor and Councillors. Regular Councillor Forums will be timed as consistently as possible, in expectation that Councillors will endeavour to attend all such meetings unless there is a reasonable reason why they cannot do so, noting however that attendance is not a statutory requirement.

4.1.3. Leadership Team Briefings

In recognition of the leadership roles of the Chief Executive Officer, the Lord Mayor and the Deputy Lord Mayor, regular meetings will be held. These meetings shall provide the opportunity of raising emerging issues (including stakeholder issues), that have the potential to impact on Council position or policy. Discussion shall seek to identify the most appropriate strategy or way forward in progressing such matters. The Chief Executive Officer shall provide advice in relation to progressing matters within budgeted resources. This includes advice in respect of any operational issues raised by the Lord Mayor and Deputy Lord Mayor.

4.1.4. Individual Councillor Briefings

Separately to portfolio briefings (see section 4.3), the Chief Executive Officer will also offer regular meetings with individual Councillors to determine whether Council priorities are being met and to consider matters raised by the Councillor.

4.1.5. Briefing Papers

In addition to the face-to-face briefings above, Briefing Papers from the Executive Leadership Team will be circulated to all Councillors as appropriate.

Any time an Annual Plan Initiative is proposed to be noted as being complete, Councillors will be informed with a Briefing Paper.

4.2. Preparation of Committee and Council reports

4.2.1. Reports from management

The management will provide professional advice and recommendations to Councillors in the form of reports to Committee and Council. The administration will maintain a forward plan of proposed Committee and Council business and this shall be available to all Councillors, including by monthly briefing paper setting out the draft

list of items to be considered at the next three months' agendas for Council and Committee meetings, noting that these lists are always subject to change. A Portfolio Lead will be kept informed of upcoming issues through regular Portfolio Group meetings.

The preparation and submission of such reports shall generally be based on the following:

- **Public interest:** The proposal raises an issue of significant public interest.
- **Policy change:** The proposal raises an issue of policy or process not covered by existing policy or practice.
- **Public objection:** The proposal has given rise to substantial public objection or appears likely to do so.
- **Consistency:** The Chief Executive Officer or delegate recommends approval of the proposal, but such approval would be, or could reasonably appear to be, inconsistent with a previous decision or decisions by or on behalf of the Council.
- **Unbudgeted expenditure:** Implementation of the proposal would require expenditure of Council funds, and such funds have not been specifically provided for in the budget.
- **Consultation:** The Chief Executive Officer or delegate is not satisfied that the proposal has been the subject of appropriate consultation with those likely to be interested in or affected by it.
- **Decision by Council:** The Chief Executive Officer or delegate:
 - is not satisfied that the proposal is one that is appropriate for the decision of the administration rather than the Council
 - believes that it is more appropriate that the proposal or any issue arising in connection with it should be determined by the Council rather than the administration.
- **Call-in of proposal:** Any Councillor has indicated a desire to call in the proposal for Council decision.

4.2.2. Councillor requests for report preparation

Individual Councillors seeking the preparation of a report to Committee or Council should convey the request to the Chief Executive Officer. The Chief Executive Officer will assess the request and if fulfilling such a request requires use of significant resources, proposes substantial unplanned work or has a budget impact, a briefing paper shall be prepared for consideration by Councillors. The Chief Executive Officer will only proceed with preparation of a report following advice that a consensus view was reached at Councillor-Only Session on the need for a report.

4.3 Support for Portfolio Lead

Management shall establish operational processes to support the role of Portfolio Lead and Deputy Lead in the decision-making and city representation functions of Council.

A key component of arrangements shall involve establishment of Portfolio Groups to foster information exchange and advice on emerging decisions, issues and opportunities relating to the portfolio. The functioning of Portfolio Groups shall be guided by the following principles:

- Each Portfolio shall have a designated Portfolio Sponsor who is a member of Council's MLT and nominated by the Chief Executive Officer.
- Regular meetings shall be established and the frequency shall be flexible and guided by portfolio activity and operational requirements.
- Some Portfolio Groups may hold regular concurrent meetings in the interests of efficiency.

- Portfolio Groups shall comprise the Portfolio Lead and Deputy Lead, Portfolio Sponsor/s and relevant members of the MLT and other Council officers as required to assist with areas covered by a portfolio.

- A Portfolio Sponsor shall provide advice and guidance and conduct meetings to deliver integrated and relevant advice by ensuring all areas of the organisation relevant to the portfolio are actively engaged in briefing a Portfolio Lead/Deputy and outcomes are clearly captured and communicated. It is important to note that sometimes it is necessary, on difficult policy issues, to be aware of policy options that are not being pursued and why. The Portfolio Lead and Deputy will be informed when this occurs.

- Information to be shared and reviewed with a Portfolio Lead/Deputy shall include:
 - **Annual Plan Initiatives** Progress on delivery of agreed commitments and opportunity to share/feed ideas as the new Annual Plan cycles approaches, including any associated media or stakeholder engagement.
 - **Upcoming Council business:** Briefings on impending decisions for meetings of Future Melbourne Committee and Council, including any associated media or stakeholder engagement.
 - **Media, communication and engagement:** Details of planned or anticipated media activity, proposed community or stakeholder consultation or engagement by Council and opportunities for representation roles in areas of portfolio responsibility.

- MLT offer a Portfolio Lead an administrative sounding board on matters raised by community and stakeholder groups on issues relating to the portfolio. This will be offered through Portfolio Group meetings or directly with the relevant member of the MLT depending on timing.

- Portfolio Leads and Deputy Leads offer an important avenue to achieving a broader understanding and consensus by all Councillors on matters (relating to the relevant portfolio) scheduled to be presented to Committee or Council.

- The stage of engagement of Portfolio Leads in matters to be presented to Committee and Council will be guided by ELT deliberations on specific matters or at the discretion of the respective Portfolio Sponsor.

- Opportunities for feedback from Councillors are appropriate on matters such as development of a policy, strategy, plan or submission. When matters of a statutory or operational nature arise, verbal briefings for the purpose of information sharing may be appropriate.

- Councillors must recognise the role of all Council officers in providing integrated professional, objective and impartial advice and analysis and the role of the Chief Executive Officer in ensuring that all advice to Council meets this criteria. Should Councillors wish to explore avenues to seek an alternative resolution by Committee or Council, advice on governance and procedural processes will be made available.

- To support the principle of information provided to one being generally available on the Councillor portal to all Councillors, action notes of Portfolio Group meetings will be circulated to all Councillors. Councillors may seek additional information through the Portfolio Lead or management in an area of interest. Action notes will also be made available to Council's MLT to foster greater cross-organisational cooperation and awareness.

4.4 Dealing with confidential information

In the course of conducting Council business, information of a confidential nature may be brought to the attention of Councillors or management. There will be occasions, where due to factors such as timing and

sensitivity of a matter, the information may not be able to be shared more broadly by Councillors or management.

Councillors and management will work within the statutory requirements and provisions guiding access to confidential information as part of the decision-making process. These are referenced in the Councillor Code of Conduct and elsewhere in the Councillor Protocol.

5. City representation

Opportunities for the Lord Mayor, Deputy Lord Mayor and Councillors to represent the City will arise through a range of mechanisms including media activity, event attendance and contribution to internal and external publications.

The following protocol outlines the processes by which opportunities will be progressed and allocated.

Where there is potential portfolio overlap when dealing with media or other representation roles. Councillors are encouraged to reach an agreement on the designated representative. Where an agreement cannot be reached by Councillors in accordance with this protocol, the matter will be referred to the Lord Mayor for determination.

5.1. Media

5.1.1. General principles

The Lord Mayor, Deputy Lord Mayor and Councillors play an important role in representing our organisation and our community. The *Lord Mayor* is the principal spokesperson for the Council in accordance with Section 18 of the *Local Government Act 2020*.

The following protocol acknowledges that the Lord Mayor is the principal spokesperson for the Council but also recognises the important role of Portfolio Leads in communicating Council policy on matters relevant to the Melbourne community. The aim of this protocol is to share individual media opportunities between the Lord Mayor and the relevant portfolio lead wherever practicable.

This protocol acknowledges that the resources of the Media Team will be made available to assist the Lord Mayor, Deputy Lord Mayor, Councillors and Chief Executive Officer (or delegate) to communicate with media outlets on matters of Council policy.

Councillors who have played a key role in development of a Council position and would like to be engaged with media should advise the Lord Mayor and the relevant Portfolio Lead. This will ensure that the Councillor is kept informed when advancing media opportunities.

A Councillor acting as an authorised spokesperson in line with the following protocol has a responsibility to represent the Council position in relation to a matter. If that Councillor wishes to express a personal view which differs from an adopted position, the Councillor is obliged to identify that the opinion or view is their own.

5.1.2. Determination of the Council spokesperson on any matter

The Lord Mayor is the principal spokesperson for the Council in accordance with the Act. The Lord Mayor may delegate this role to the Deputy Lord Mayor where appropriate.

Portfolio Leads are secondary spokespersons for the Council in relation to matters within their respective portfolios only. Respective spokesperson roles will be managed and agreed on a case by case basis between the Lord Mayor and Portfolio Lead. This does not override the Lord Mayor's role as principal spokesperson.

The Chief Executive Officer is the spokesperson for any internal organisational matter.

5.1.3. Media Team support

The Media Team will support the spokesperson in undertaking their role and in generating and responding to media.

A member of the Media Team will generally accompany Lord Mayor, Deputy Lord Mayor and Councillors, if required, to media opportunities or events where a media spokesperson role is likely.

If any matter within this section relates to a motion that has or will be moved by a Councillor in the General Business section of a Council or Special Committee meeting, the Media Team will make the relevant Councillor generally aware of any activity and, if relevant, the proposed approach.

While Councillors are entitled to speak to the media on any topic, if they are not acting as the authorised spokesperson on Council matters or positions as described in this protocol, the Media Team's resources and assistance are not available to them.

5.1.4. Media releases and media events

Wherever the City of Melbourne publishes a media release or a prepared statement to one or more journalists or media organisations, the statement will, except where it is inappropriate to provide any quote, include quotes by the Lord Mayor as spokesperson in accordance with section 5.1.2 and relevant Portfolio Lead. For proactive media events, the Portfolio Lead will also be invited to play a supporting role with the Lord Mayor.

All Councillors will receive copies of all media releases upon publication to the Councillor portal and City of Melbourne's website.

5.1.5. Obligations on Councillors in relation to media contact

The Lord Mayor, Deputy Lord Mayor and Councillors will when providing public comment in any media (other than self-published media on social media platforms), whether initiating contact with or responding to a journalist or media organisation, and whether or not the Councillor is a spokesperson on the matter in question, should alert the Director, Strategic Communications or nominated staff member without delay of the time and topic of the comment, and the organisation that the comment was provided to.

If the Lord Mayor, Deputy Lord Mayor or a Councillor providing comment to a journalist is not the spokesperson for the matter at hand, they will inform the journalist of the identity of the spokesperson. If a Councillor provides comment, they will alert the relevant portfolio holder as soon as possible.

If the Lord Mayor, Deputy Lord Mayor or a Councillor provides comment to a journalist that could be deemed to be divisive, or against an agreed Council position, they will alert all Councillors of the nature of the comment as soon as possible.

5.1.6. Social media

The City of Melbourne uses social media to engage with the wider community. The administration operates various social media accounts in accordance with the City of Melbourne Social Media Policy.

As the Council's principal spokesperson and representative, appropriate social media accounts using the title of Lord Mayor will be maintained by the administration. The accounts will be utilised as part of the City of Melbourne's broader communication and engagement through social media.

As part of a broader approach to enhancing community and public engagement in Council decision-making processes, the Media team will, where appropriate, publicise impending Committee and Council business

through traditional and social media. They will also publicise outcomes on matters which may benefit from increased community awareness and debate.

5.2. Corporate communications

The City of Melbourne will use a range of digital and print communication methods to reach, inform and engage the community and will strive to do this in a sustainable and cost effective manner.

The methods and platforms used will vary and evolve over time to allow Council to respond and adapt to current and emerging trends in the way the community prefers to receive information about activity within the municipality.

5.3. External publications

Opportunities to contribute to publications produced by external sources shall be referred to the Lord Mayor, Deputy Lord Mayor or Councillors as appropriate to their Portfolio Lead role or that of the Lord Mayor as principal spokesperson. Appropriate support will be provided where the subject matter has a strong alignment with Council goals, policies and objectives.

5.4. Representing the city at events, functions and delegations

5.4.1. Nationally and Internationally

As a Capital City, Council plays an important role in issues at a local, national and international level. In representing the Council, Councillors and the administration will be required to travel with the aim of strengthening domestic and international relationships and arrangements. Travel undertaken by Councillors and the administration will be in accordance with guidelines that provide for authorisation processes, reporting and recording of related expenses. The protocols covering travel by Councillors are outlined in the Council Expenses Policy.

5.4.2. Local Representation - Functions, Events and Delegations

5.4.2.1. Opportunities generated through Council organised and supported events

As chief representative and spokesperson for Council, the Lord Mayor is given first opportunity to represent Council at functions and events organised or supported by the City of Melbourne.

For functions and events where the Lord Mayor is given first opportunity to represent Council, if the Lord Mayor is unavailable, the invitation is first forwarded to the Deputy Lord Mayor, then the relevant Portfolio Lead if the Deputy Lord Mayor is also unavailable, then the relevant Deputy Lead if the Lead is also unavailable. To ensure that the portfolio holder is kept informed, the relevant Portfolio Lead shall, for information purposes, receive notification of opportunities referred to the Lord Mayor for consideration.

For functions and events where the relevant Portfolio Lead is given first opportunity to represent Council, if the Portfolio Lead is unavailable, the invitation is first forwarded to the Deputy Lead. Where a Councillor has played a key role in development of a Council organised or supported event and would like the opportunity to represent the City at that event, the Councillor should advise the Councillor/s otherwise entitled to be the representative, and either request that the speaking opportunity be passed on, or that arrangements otherwise be made to include the Councillor in the formal proceedings of the event.

Opportunities for representation by Councillors, the Chief Executive Officer and General Managers will be communicated through a Corporate Calendar system which provides full details of opportunities and background information to maximize benefits from Council involvement.

Speechwriting support is not provided for Councillors who wish to speak at functions outside of their official role as a City of Melbourne representative.

For the purposes of the protocol, supported refers to City of Melbourne funding or in-kind-contribution-towards the staging of an event or function. This does include funding provided through the purchase of tickets or seating at events and functions once the event has been announced and promoted.

5.4.2.2. Opportunities received directly by Councillors and the administration from external sources

Invitations received by the Lord Mayor

As the chief representative of Council, the Lord Mayor will be approached by city stakeholders to participate in events, functions and activities important and relevant to Melbourne. If the Lord Mayor is unavailable and the opportunity is transferable, the opportunity will be referred to the Deputy Lord Mayor in the first instance.

If unavailable, the Lord Mayor will refer to another Councillor and may take into account Portfolio Lead roles positions on advisory committees and external organisations, areas of expertise and interest expressed by Councillors.

Invitations received by the Deputy Lord Mayor and Councillors

The Deputy Lord Mayor and Councillors will receive invitations in an individual capacity to represent Council. These may be received in acknowledgement of portfolio responsibilities or in response to established relationships with city stakeholders. Councillors will consider and respond to such invitations in an individual capacity. If the opportunity is transferable, Councillors should consider referring the invitation to the relevant Portfolio Lead.

Invitations received by the administration

Where an external source approaches the administration with a view to seeking representation by a Councillor, the administration first refers the approach to the Lord Mayor for consideration. If the Lord Mayor declines the invitation and an alternative Councillor is considered acceptable to the organising body, the request is forwarded to the Deputy Lord Mayor and then to the relevant Portfolio Lead.

5.4.2.3 Support for Councillor Representation

In representing Council at events, functions and delegations, Councillors may require support in the form of speech notes, presentations and background information. This support shall be arranged through the Corporate Calendar system or through other agreed processes and support networks. When requesting a speech for an event which is not Council owned or supported, the request must identify a strong alignment with Council goals, policies and objectives or seek to advance the City of Melbourne's leadership role within the community.

5.4.3. Representation at Council organised or supported events

Councillors will have the opportunity to represent Council and host stakeholders and associates at cultural, community, business and sporting events in Melbourne. These include those events organised or supported

by Council. Where limited opportunities for participation are available, priority access will be given to the Lord Mayor, Deputy Lord Mayor and Portfolio Leads.

Councillors should be aware that Fringe Benefits Tax and Reportable Fringe Benefits Tax provisions apply in respect of access to events provided by Council. Councillors should refer to the Expenses Policy for further guidance on these provisions.

5.4.4. Requests for Council support or funding for events

Councillors approached for Council support or funding for events and activities must first raise the matter with management for consideration in accordance with Council policy and guidelines under specific programs and projects. The guidelines ensure that assessment processes are fair, transparent and accountable.



Councillor Code of Conduct ~~2018~~ 2020

Adopted by Melbourne City Council on ~~4 September 2018~~ 15 December 2020

UNFORMATTED DRAFT

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SECTION 1: BACKGROUND

1.1 OVERVIEW

The governance arrangements that cover the City of Melbourne are set out in the [Local Government Act 2020](#) ~~1989~~ (the Act) and the [City of Melbourne Act 2001](#). The primary objective for the Melbourne City Council (Council) is to endeavour to achieve the best outcomes for the local community having regard to the long term cumulative effect of its decisions. Further objectives are set out in the Acts. Good governance is fundamental to the achievement of Council's objectives.

[The Act](#) requires Council to have a Councillor Code of Conduct and prescribes certain requirements.

The Councillor Code of Conduct must set expected standards of Councillor behaviour and provide guidance in the event of any Councillor breach of the Code of Conduct.

This Councillor Code of Conduct (the Code) was adopted by Melbourne City Council (Council) on **15 December 2020** ~~XX-2018~~ and is required to be reviewed within four months after a general election. This Code replaces the previous Councillor Code of Conduct adopted by resolution of Council on 4 September 2018 ~~May 2018~~.

~~The Councillors have also committed to reviewing the Code annually.~~ **The Code of Conduct will be reviewed annually by Councillors.**

1.2 PURPOSE

The purpose of the Code is to set out the principles, values, standards and behaviours that will guide Council collectively and the Councillors individually in undertaking their duties and obligations as set out in [the Act](#), the [City of Melbourne Act 2001](#) and all other applicable legislation. This Code is intended to set a high standard of conduct in order to ensure good governance and increase public confidence in the administration of Council. As custodians of a capital city government, the Lord Mayor, Deputy Lord Mayor and Councillors hold unique and important leadership roles within Victoria.

1.3 SCOPE

This Code:

- sets out the behaviour expected of elected representatives of Council
- supports and fosters good working relationships between Councillors, and between Councillors and employees of Council and the community

- mandates conduct by Councillors which builds public confidence in the integrity of local government.

This Code applies to a Councillor who is:

- conducting the business of Council
- conducting the business of the office to which they have been elected or appointed
- acting as a representative of Council.

For the purposes of this Code, the term 'Councillors' includes the Lord Mayor, the Deputy Lord Mayor and all other Councillors of Council, except where the context otherwise indicates or requires.

This Code adopts and incorporates relevant Councillor protocols, policies, procedures and other documents, as amended from time to time, which are set out in Appendix 1. By agreeing to this Code, Councillors are expressly agreeing to adhere to the policies in Appendix 1 as agreed by Council at that time.

Legislative obligations of Council and Councillors are expressly set out in the Code where required by legislation. Council and Councillor obligations in [the Act](#), [City of Melbourne Act 2001](#) and other applicable legislation (as amended) apply to Council and Councillors even if not expressly set out in the Code.

This Code should be read alongside other Council documents, including the Council Plan, Council policies, protocols and Council's local laws, as applicable, which all form part of Council's governance framework.

This Code should not be read as an exhaustive statement on the rights and obligations of individuals that ordinarily apply under the law, including any avenues of reporting and redress that may be available in specific circumstances.

Where members of the public would like to raise a complaint against a Councillor for a possible breach or offence under the Act or this Code, this may be directed to the Chief Municipal Inspector or the City of Melbourne Principal Councillor Conduct Officer.

1.4 COUNCILLOR COMMITMENT TO THE CODE OF CONDUCT

I, as an elected representative of the community charged with decision making for the City of Melbourne, am committed to undertaking the duties and responsibilities of my office by working together with my fellow Councillors in a respectful and constructive manner to achieve the goals and vision for our city.

I recognise the importance of acting in accordance with the highest standards of governance, and that this is essential to honest, accountable and effective government. My behaviour towards my colleagues, the employees of Council and the community is critical to the teamwork required to be a successful and highly functioning public authority.

I acknowledge that I have been elected by the community to a position of significant responsibility with the expectation that I will act in accordance with accepted values of our society.

I also acknowledge that Council is committed to the ICARE values of integrity, courage, accountability, respect and excellence. These values and associated obligations are set out in this Code together with additional conduct requirements and processes for the management of behaviour which does not meet the required standards. The Code also incorporates specified protocols, policies and procedures which underpin the values and provide guidance for the implementation and management of Councillor conduct.

As a Councillor of the City of Melbourne I agree to:

- act in accordance with the principles of good governance and respectful conduct and associated obligations set out in the Code and legislation
- provide civic leadership and contribute effectively to the interests and advancement of Council and its community
- contribute to the strategic vision for Council
- uphold the public trust in the office of Councillor by refraining from any action or behaviour that would bring Council into disrepute
- act in accordance with all my obligations to the best of my skill and judgment.

This Code sets out my commitment to my fellow Councillors and the community to govern the city in a manner which accords with the expressed behaviours, standards and values.

This Code will be reviewed in accordance with relevant legislative obligations. Additionally, every twelve months Councillors will review this Code to ensure that it meets and continues to meet community standards and expectations.

By signing below, I declare to my fellow Councillors and to the community that I have read, understood and will abide by this Code of Conduct.

Lord Mayor Sally Capp

Deputy Lord Mayor Nicholas Reece

Councillor Olivia Ball

Councillor Roshena Campbell

Councillor Jason Chang

Councillor Elizabeth Mary Doidge

Councillor Davydd Griffiths

Councillor Jamal Hakim

Councillor Philip Le Liu

Councillor Rohan Leppert

Councillor Kevin Louey

Witnessed by Chief Executive Officer, Justin Hanney

UNFORMATTED DRAFT

SECTION 2: COUNCILLOR CONDUCT OBLIGATIONS

2.1 ~~PRIMARY PRINCIPLES OF COUNCILLOR CONDUCT~~ **STANDARDS**

Councillors must comply with the prescribed standards of conduct in Schedule 1 to the *Local Government (Governance and Integrity) Regulations 2020*. A copy of the conduct standards appears at Appendix 3.

A breach of the conduct standards constitutes misconduct as defined under the Act.

2.1.1 **Standard 1 – Treatment of others**

In performing the role of a Councillor, I will treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that I:

- take positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the *Equal Opportunity Act 2010*.
- support Council in fulfilling its obligation to achieve and promote gender equality.
- do not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors.
- in considering the diversity of interests and needs of the municipal community, treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities.

As a Councillor, I will:

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

2.1.2 **Standard 2 – Performing the role of Councillor**

In performing the role of a Councillor, I will do everything reasonably necessary to ensure that I perform the role of a Councillor effectively and responsibly, including by ensuring that I:

- undertake any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor.

- diligently use Council processes to become informed about matters which are subject to Council decisions.
- am fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity.
- represent the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

2.1.3 Standard 3 – Compliance with Good Governance Measures

In performing the role of a Councillor, to ensure the good governance of Council, I will diligently and properly comply with the following:

- any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors.
- the Council expenses policy adopted and maintained by the Council under section 41 of the Act.
- the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act.
- any directions of the Minister issued under section 175 of the Act.

2.1.4 Standard 4 – Council Reputation

In performing the role of a Councillor, I will:

- ensure that my behaviour does not bring discredit upon Council.
- not deliberately mislead Council or the public about any matter related to the performance of their public duties.

~~GENERAL PRINCIPLES OF COUNCILLOR CONDUCT~~

~~In performing my role as a Councillor, I will:~~

- ~~• avoid conflicts between my public duties as a Councillor and my 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 staff and other persons~~

- ~~exercise reasonable care and diligence and submit myself to the lawful scrutiny that is appropriate to my 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 me 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.~~

2.2 COUNCILLOR VALUES AND BEHAVIOURS

In undertaking my role as a Councillor I will embrace and demonstrate Council's corporate values, which set out our shared goal to work together for Melbourne. In challenging and inspiring myself and others to realise our vision for the city, I will demonstrate the following:

~~2.3.4~~2.2.1 Integrity

I will conduct activities professionally and ethically and take responsibility for my actions in an honest and transparent way. I endeavour to:

- deal with others fairly and consistently
- follow through on commitments
- represent my views truthfully
- be open to constructive feedback
- consider the whole picture, seek evidence before forming views and be prepared to discuss how views were formed.

This includes, for example:

- abiding by relevant legislation and Council policies, protocols and procedures
- encouraging an environment for the giving of frank advice or raising issues
- supporting fellow Councillors if I believe they have been treated unfairly or disrespectfully.

~~2.3.2~~2.2.2 Courage

I will exercise fortitude in decision-making and accept responsibility for the consequences of my own actions and choices. In doing so I endeavour to:

- raise issues directly, constructively and in an appropriate forum
- be willing to explore new ideas and ways of doing things

- present and debate ideas and innovations to the best of my ability and willingly accept outcomes
- speak for myself rather than relying on others.

This includes, for example:

- being prepared to raise issues through appropriate channels on workplace issues that fall short of expected values and behaviours
- demonstrating leadership by modelling agreed Councillor values and behaviours.

2.3.32.2.3 Accountability

I will take personal responsibility for decisions and actions. In doing so, I endeavour to:

- ensure best use of resources
- take responsibility for making sure my personal actions contribute to the agreed outcomes
- act and work in an open and transparent manner and report results
- recognise the achievements of others when appropriate
- be responsive in a timely manner.

This includes, for example:

- ensuring I have up-to-date knowledge of latest workplace standards and appropriate behaviours by seeking information and guidance as necessary
- co-operating with a request by a fellow Councillor when asked to resolve a dispute in accordance with the procedures in this Code
- following up on commitments I have made to members of the community in a timely manner.

2.3.42.2.4 Respect

I will value the contribution and individuality of others and contribute to healthy working relationships. In doing so, I endeavour to:

- recognise and encourage the ideas and contributions of others
- show respect when interacting with, speaking to and about others
- respect and relate well to people of diverse backgrounds
- be courteous and approachable and respect others' boundaries
- positively contribute to, and participate in, Councillor group activities

- actively listen to, consider and debate other people's ideas constructively, including when they are different to my own.

This includes, for example:

- treating a fellow Councillor or members of the community as I would like to be treated
- adhering to appropriate protocol during meetings and treating members of the public with dignity
- welcoming officers' frank and fearless advice.

2.3.52.2.5 Excellence

I will aim to achieve the highest standards and continuously improve performance to achieve outstanding outcomes for Melbourne. In doing so, I endeavour to:

- be strongly focused on results
- understand what is required to deliver excellence and seek support when needed
- continually strive for improvement.

This includes, for example:

- undertaking any training and development necessary to meet the obligations and standards expected of me
- supporting a culture where everyone lives by shared Council values and standards
- voluntarily contributing to conversations to collectively reflect on our practice of the Code.

2.3 SPECIFIC COUNCILLOR CONDUCT OBLIGATIONS

The following section sets out specific conduct obligations that are agreed by all Councillors. **In some instances a breach of the conduct obligations under this part might also constitute a breach of the conduct standards. As noted in 2.1 a breach of the conduct standards may result in a finding of misconduct under the Act.**

I acknowledge and agree that Council policies, protocols and procedures referred to below apply to me as a Councillor and I commit to compliance with them and with my legislative obligations.

2.4.2.3.1 Decision making

I am committed to making all decisions impartially and in the best interests of the community. I will actively participate in the decision-making process and appropriately inform myself of the matter at hand. Once a decision has been made, I will respect the making of that decision.

The [Councillor Protocol](#) and [Governance Rules Meeting Procedures Code](#) set out the procedures for decision making by Council and I agree to adhere to both.

2.4.2 2.3.2 Use of Council information

I acknowledge that information which is “confidential information” within the meaning of section 3 and section 125 77 of [the Act](#), and Chapter 6 of the [Governance Rules](#) may not be disclosed by me except in certain specified circumstances. I am aware that Council information may also be subject to other legislation including the [Health Records Act 2001](#), [Privacy and Data Protection Act 2014](#) and [Freedom of Information Act 1982](#).

The [Councillor Protocol](#) provides extra context regarding the treatment of confidential information.

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

2.4.3 2.3.3 Communications and media

Councillors have an obligation to effectively and satisfactorily communicate the decisions of Council and to respond to the community as required. To ensure that clear and consistent messages are communicated, the [Councillor Protocol](#) sets out the management of media enquiries, release of information and nominated spokespersons.

I will comply with the [Councillor Protocol](#) and respect the roles of Council’s official spokespersons. I will also:

- respect Council's decisions by not criticising or actively undermining any decisions which have been made
- not bring Council into disrepute through any of my words or actions
- not speak on behalf of Council without authority
- ensure any personal opinions or views I express publicly are identified as my own and not those of Council
- ensure any communications I make are not offensive, derogatory, insulting or otherwise damage the reputation of Council.

2.4.42.3.4 Conflict of interest

Sections 126 to 131 77A to 80A of [the Act](#), and Chapter 5 of the [Governance Rules](#) require each Councillor to identify, manage and disclose any conflicts of interest they may have. I acknowledge that I have read and understand these provisions and will abide by them. In the event that I consider that I have an actual or perceived conflict of interest in relation to a matter, I will declare and identify this at the commencement of any discussion on the matter. I will seek advice from the Chief Executive Officer or other appropriate person if I need assistance on interpretation of the legislative provisions.

I understand that the declaration must be in writing, and must be made at any Council meeting, Committee meeting or meeting at which an employee is present, at which the matter is to be discussed.

2.4.52.3.5 Significant and/or intimate relationships

I understand that conflict and bias can arise from situations where relatives or people with significant and/or intimate relationships work together, and this can potentially lead or be seen to lead to decisions I make as a Councillor being made for reasons other than the public interest.

If I am involved in a relationship of a significant or intimate nature with another Councillor or an employee, I undertake to disclose the fact of this relationship to the Lord Mayor and the Chief Executive Officer.

2.4.62.3.6 Gifts and hospitality

I commit to compliance with my statutory obligations in relation to gifts and hospitality. I also undertake to comply with Council's policy to publicly disclose all gifts, benefits or hospitality received in my capacity as a Councillor, [in accordance with the Councillor Gift Policy](#). ~~valued at more than \$150 via the Gift Register.~~

In addition, I commit to notify the Chief Executive Officer and ~~Manager~~ **Director** Governance and ~~Legal~~ if in the conduct of my duties, I receive an inappropriate offer or benefit of any kind.

2.4.72.3.7 Reporting fraud and corruption

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

I will immediately report to the Chief Executive Officer and/or appropriate integrity body, in line with the Council's **Public Interest ~~Protected~~ Disclosures Procedures**, any suspected, potential or actual fraudulent, criminal, unethical, corrupt or other unacceptable behaviour that comes to my knowledge. I will participate as required to the best of my ability in any subsequent investigation whether undertaken internally or externally.

2.4.82.3.8 Councillor and officer engagement

I have read and understood the requirements of Section **124 76E** of [the Act](#) and I will not seek to improperly direct or influence members of Council staff in the exercise of their duties. I will follow all procedures and protocols which set out interaction between Councillors and the Chief Executive Officer, senior management and other employees.

2.4.92.3.9 Use of council resources

I commit to using Council resources effectively and economically and in accordance with all Council policies. In particular, I will:

- use Council resources, which may include equipment, information, staff resources, property of any kind and other assets, which have been provided to me only for the purposes of my duties as a Councillor and not for private purposes unless properly authorised to do so
- maintain adequate security over Council property, facilities and resources in my possession or control
- ensure that any claim for expenses that I may make will be in accordance with all legislative obligations and Council policies
- not use public funds or resources in a manner that is improper or unauthorised.

2.4.102.3.10 Meeting planning permit applicants

When proposing to meet with a known or proposed planning permit applicant (or property owner, or their representative), either for the purpose of discussing the application or where

the application is likely to become a topic of discussion, I will hold the meeting with a planning officer present.

2.4.11 2.3.11 Political activity

I am committed to ensuring that elections conducted by the City of Melbourne are conducted fairly and democratically and in accordance with the highest standards of governance. Where I am a sitting Councillor during an election period I will abide by the requirements of the applicable legislation and the Council-endorsed [Election Period Policy](#) (which forms part of the Council's adopted Governance Rules) and, whether or not I am standing for re-election, I will at all times act respectfully towards all candidates for the election.

2.4.12 2.3.12 Human rights and equal opportunity

In performing their role Councillors must take positive action to eliminate discrimination in accordance with the *Equal Opportunity Act 2010* and support Council in fulfilling its obligation to achieve and promote gender equality.

I acknowledge the human rights that are protected under the [Victorian Charter of Human Rights and Responsibilities Act 2006](#) and undertake to exercise my duties in a manner that is compatible with the rights set out in the Charter.

I acknowledge this undertaking extends to all my relationships as a Councillor, including with other Councillors, the Chief Executive Officer and Council employees, as well as any member of the public with whom I may have contact, and any decisions I participate in as a Councillor.

I am committed to treating all people with dignity and respect in accordance with Council's Respectful Conduct Policy, which recognises that there is no place for unlawful discrimination, harassment (sexual or otherwise), racial and religious vilification and victimisation of any individual.

I will:

- take all reasonable steps to eliminate all forms of discrimination at Council
- support Council to fulfil its obligation to achieve and promote gender equality
- adhere to Council's Respectful Conduct Policy.

2.4.13 2.3.13 Sexual harassment

Sexual harassment is against the law and will not be tolerated under any circumstances. In performing their role Councillors must take positive action to eliminate sexual harassment in accordance with the *Equal Opportunity Act 2010*. I will not engage in any unwelcome conduct of a sexual nature towards another individual where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the individual harassed would be offended, humiliated or intimidated.

I will:

- adhere to Council's Respectful Conduct Policy
- take all reasonable steps to eliminate sexual harassment at Council.

2.4.14 2.3.14 Bullying, vilification and victimisation

Council is committed to maintaining a workplace that is free from bullying, vilification and victimisation, where all people are treated with dignity and respect. In performing their role Councillors must take positive action to eliminate victimisation in accordance with the *Equal Opportunity Act 2010*. I will uphold Council's obligations to support a safe workplace, and will not engage in repeated unreasonable behaviour toward another Councillor or member of Council staff that creates a risk to the health and safety of that other Councillor or member of Council staff.

I will:

- adhere to Council's Respectful Conduct Policy
- take all reasonable steps to eliminate bullying, vilification and victimisation at Council.

2.4.15 2.3.15 Occupational health and safety

Council is committed to providing and maintaining a safe workplace for all and recognises the provisions of the [Occupational Health and Safety Act 2004](#) (OHSA) apply to Council and Councillors. The Chief Executive Officer has a clear accountability for OHS matters, given their mandate under [the Act](#), and will put policies in place from time to time to ensure a safe workplace for Councillors to carry out their civic duties.

I will adhere to Council's Occupational Health and Safety Policy.

As a Councillor, I understand that occupational health and safety is a shared responsibility. Accordingly, I will:

- take reasonable care to protect my own health and safety as well as the health and safety of others in the workplace.
- take reasonable care to make sure Council carries out, through the Chief Executive Officer, its general duties to ensure a safe workplace that is without risks to health by ensuring appropriate systems and policies are in place to manage those risks.
- consider any health and safety implications of Council decisions.

2.3.16 Interactions with others

Council is committed to treating all members of the community with dignity, fairness, objectivity, courtesy and respect.

As a Councillor I will:

- not engage in abusive, obscene or threatening behaviour in my dealings with members of the public, Council staff and Councillors.
- in considering the diversity of interests and needs of the municipal community, treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities.
- adhere to Council's Respectful Conduct Policy.

2.4.16 2.3.17 Fitness to carry out duty

Council is committed to providing and maintaining a work environment that is safe and without risks to health. **Councillors must ensure that they are fit to conscientiously perform the role of a Councillor.** I acknowledge that a physical or psychological impairment may impact on my fitness to carry out duty and, left unaddressed, may negatively affect the health and safety of myself and others. I also acknowledge that a range of factors and circumstances can impact on the satisfactory performance of my duties, including the consumption of alcohol and other drugs, even if legal and prescribed.

I will adhere to Council's Fitness to Carry Out Duty Policy.

2.4.17 2.3.18 Interacting with children

Council prides itself on being a child safe organisation and has zero tolerance for child abuse. Council adheres to the [Victorian Child Safe Standards](#) and related legislation which governs the protection of children and young people and deals with the failure to report harm, failure to protect and grooming offenses. Accordingly, I undertake to:

- maintain the highest standards of professional conduct in my attitude, behaviour and interactions with children and young people
- support and maintain Council's commitment to the safety and wellbeing of children and young people and including through any decision I participate in as a Councillor
- take all reasonable steps to protect children and young people from harm, including complying with Council's obligations under State and Federal child protection legislation.

2.4.18 2.3.19 Commitment to best practice

We acknowledge that in fulfilling the statutory requirements of our role, a shared understanding of our obligation and the practical ways that we perform our duties is necessary for good governance. To achieve this shared understanding, I commit to take all reasonable steps to become familiar with Councillor policies and protocols and participate in any reviews of these documents.

SECTION 3: CoM DISPUTE RESOLUTION

3.1 PURPOSE

This part describes the processes for Councillors who wish to report and resolve a dispute with another Councillor under the Code. Councillors recognise that the democratic process of local government involves holding, and expressing, different and sometimes opposing viewpoints. It is a normal, and vital, function of this process that these different views are shared in a considered and informed way. Although all Councillors strive to engage in positive, constructive and respectful interactions, conflict and/or disputes may arise.

All Councillors recognise that they hold an individual and collective responsibility to resolve disputes in a proactive, positive and courteous manner before they are escalated, to avoid such disputes threatening the effective operation of Council.

The primary purpose of an internal resolution procedure is to provide Councillors with support and mechanisms to resolve conflicts and disputes in a manner that enables them to move forward and establish and maintain effective working relationships. The procedure also provides avenues and guidance for escalating more serious issues and allegations where required.

This procedure:

- is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in council and committee meetings
- does not include a complaint made against a Councillor or Councillors by a member or members of Council staff, or by any other person, or a “disclosure” under the [Public Interest Disclosures Protected Disclosure Act 2012](#) .

3.2 SCOPE

This procedure operates alongside, and does not displace, any external avenues provided for by legislation for the reporting and resolution of issues and disputes. It should be read in conjunction with [the Act](#) which sets out avenues for reporting matters of Councillor misconduct and establishes external authorities to hear, investigate, prosecute and make findings of Councillor misconduct, serious misconduct and gross misconduct.

For the purposes of this part:

- 'Principal Councillor Conduct Officer' refers to an appointee of the Chief Executive Officer who assists Council in the implementation and conduct of the internal **arbitration process** ~~resolution procedure~~ in the Code.
- This procedure does not deal with allegations of criminal misconduct as they are envisaged to be raised with Victoria Police or other relevant mechanisms.

- Nothing in this procedure prevents an individual Councillor with a specific issue or dispute from pursuing other avenues available to them under the law.

For the avoidance of doubt, a Councillor or member of the public may raise a formal complaint through any available channel external to Council as provided by law.

In particular, some allegations of Councillor misconduct under this Code may also constitute ~~misconduct~~ or serious misconduct under the Act. In these instances, it is open to Council, a Councillor, or a group of Councillors, to make an application for a Councillor Conduct Panel. For allegations of gross misconduct, Council, a Councillor(s) or members of the public can raise complaints to the Local Government ~~Investigations and Compliance~~ Inspectorate.

3.3 RESPONSIBILITIES

3.3.1 Lord Mayor and Deputy Lord Mayor

The Lord Mayor and Deputy Lord Mayor have a responsibility to:

- establish and promote appropriate standards of conduct
- support good working relations between Councillors
- support Councillors in dispute resolution.

3.3.2 ~~Principal~~ Councillor Conduct Officer

The ~~Principal~~ Councillor Conduct Officer has a responsibility to:

- assist Council in the implementation and conduct of the internal resolution procedure
- assist the Principal Councillor Conduct Registrar to perform the functions specified in section ~~149~~ 84F of [the Act](#).

3.3.3 Chief Executive Officer

The Chief Executive Officer (CEO) has a responsibility to:

- ensure that support and assistance is available to all Councillors where it is required
- take all reasonable steps to ensure the consistent and accountable application of this policy across Council
- comply with all relevant legislation as the senior officer within Council administration.

3.3.4 Councillors

Councillors as defined in this section have a responsibility to

- co-operate with any investigation into, or arbitration of, a complaint made under this procedure; and
- maintain confidentiality regarding any complaint.

3.4 INFORMAL RESOLUTION BETWEEN PARTIES TO A DISPUTE

Before commencing a formal dispute resolution process, the Councillors who are parties to a dispute are encouraged to use their best endeavours to resolve their issue or dispute in a courteous and respectful manner between themselves, stop any behaviour that is causing issues, and to avoid the issue escalating and threatening the effective operation of Council.

Where the issue or dispute remains unresolved or where the circumstances make informal resolution inappropriate, the parties may resort to Council's internal dispute resolution processes set out below.

3.5 FORMAL DISPUTE RESOLUTION AND REPORTING

3.5.1 INTERPERSONAL DISPUTES

Interpersonal disputes between Councillors involve conflict where there may be a breakdown in communication, a misunderstanding, a disagreement between Councillors, or strained working relationships.

To report an allegation that a Councillor has contravened the Code in relation to an interpersonal dispute, a Councillor(s) must prepare a written application (the application) to the Lord Mayor, or where not appropriate (including where the Lord Mayor is involved in the allegation) the Deputy Lord Mayor or the ~~Principal~~ **Councillor** Conduct Officer, requesting that the matter be dealt with under the formal dispute resolution procedure. Such written application should include the name of the other Councillor and the details of the issue or dispute.

The Lord Mayor (or Deputy Lord Mayor or ~~Principal~~ **Councillor** Conduct Officer, where relevant), will notify the other Councillor(s) of the application, and provide them with a written copy of the request.

Approach to resolution

Where there is an interpersonal dispute between Councillors, they have the option of requesting:

- **Resolution discussion** - with one of the following in attendance and facilitating the meeting: Lord Mayor or Deputy Lord Mayor (see section 3.6.1 for detailed information)

- **Mediation** - with an external mediator, via an application to the ~~Principal~~ **Councillor** Conduct Officer (see section 3.6.2 for detailed information)
- **Arbitration** - with an independent arbiter, via an application to the ~~Principal~~ **Councillor** Conduct Officer (see section 3.6.3 for detailed information)

3.5.2 ALLEGATION OF **CONDUCT IN BREACH OF CODE** ~~IMPROPER CONDUCT~~

An allegation that a Councillor has contravened the Code may include a failure to disclose a conflict of interest, breach of confidentiality, improper direction of staff, improper use of Council resources, or a breach of Council policy under the Code of Conduct. Such conduct **may** constitute improper conduct **or misconduct** under **the Act**.

To report an allegation that a Councillor engaged in ~~improper~~ conduct in breach of the Code a Councillor(s) must prepare an application to the ~~Principal~~ **Councillor** Conduct Officer. The application must:

- specify the name of the Councillor who is the subject of the allegation or complaint
- specify the provision(s) of the Code and/or relevant Council policy or protocol that the allegation relates to
- include evidence in support of the allegation
- name the Councillor appointed to be their representative where the application is made by a group of Councillors
- be signed and dated by the Applicant or the Applicant's representative.

Approach to resolution

Where a Councillor raises an allegation of ~~improper conduct against~~ **that** another Councillor **has contravened the Code** and they want it dealt with by way of an internal dispute resolution procedure, they have the option of requesting:

- **Arbitration** – **where the allegation involves an allegation that the Councillor has breached the conduct standards**, with an independent arbiter (see section 3.6.3 for detailed information)

3.5.3 ALLEGATION OF DISRESPECTFUL CONDUCT

An allegation that a Councillor has engaged in disrespectful conduct may involve behaviour such as unlawful discrimination, sexual harassment, harassment, victimisation or bullying, or other breach of the City of Melbourne's policy in regard to respectful conduct.

In instances where a Councillor has a complaint or concerns relating to disrespectful conduct they may make contact with the Independent Respectful Conduct Advisor (IRCA). The IRCA will support the Councillor(s) in clarifying their rights and obligations and making decisions about appropriate avenues to report the Councillor(s)' allegation of sexual harassment and other disrespectful conduct.

In order to report an allegation of disrespectful conduct against a Councillor, a Councillor(s) must prepare an application to the Principal Conduct Officer or the CEO. The application must:

- specify the name of the Councillor who is the subject of the allegation or complaint
- specify the provision(s) of the Code and/or Council's policies or procedures that the allegation relates to
- include evidence in support of the allegation
- name the Councillor appointed to be their representative where the application is made by a group of Councillors
- be signed and dated by the Applicant or the Applicant's representative.

Approach to resolution

Where a Councillor raises an allegation of disrespectful conduct against another Councillor they have the option of requesting:

- **Mediation** - with an external mediator (see section 3.6.2 for detailed information)
- **Arbitration** - where the allegation involves an allegation that the Councillor has breached the conduct standards, with an independent arbiter (see section 3.6.3 for detailed information)
- **Investigation** - by an independent investigator appointed by the CEO (see section 3.6.4 for detailed information)

3.6 DISPUTE RESOLUTION OPTIONS

3.6.1 RESOLUTION DISCUSSION

Where Councillors who are in dispute have not been able to resolve their dispute informally between themselves, a party may request in writing that the Lord Mayor or Deputy Lord Mayor (the 'Convenor') convene a confidential meeting of the parties to discuss the dispute.

The Councillor requesting the meeting is to provide the Convenor with the name of the other Councillor and the details of the dispute in writing. They should also notify the other Councillor of the request and provide a copy of the written request to them.

The Convenor or the ~~Principal~~ **Councillor** Conduct Officer is to ascertain whether or not the other party is prepared to attend the meeting.

If the other Councillor is not prepared to attend the meeting, the Convenor is to advise the party seeking the meeting. No further action is required of the Convenor.

If the other Councillor consents to a meeting, the Convenor is to hold a confidential meeting of the parties.

Unless one or both parties are unavailable, this should be arranged within ten working days of receipt of the meeting request.

The Convenor may provide the parties with guidelines in advance of the meeting or at the meeting, to help facilitate the meeting.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened.

The role of the Convenor at the meeting is to assist the parties to resolve the dispute. In the process of doing this they may provide guidance about what is expected of a Councillor including in relation to the role of a Councillor under section 28 65 of [the Act](#) and the Code.

The Convenor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties and a copy kept by the ~~Principal~~ **Councillor** Conduct Officer.

Where the dispute remains unresolved, a party may request mediation or arbitration.

3.6.2 MEDIATION

A Councillor or a group of Councillors may request that their dispute be referred to mediation. The mediation would be conducted by an external accredited mediator.

The party seeking the mediation is to notify the other party of the request and details of the dispute in writing at the same time that it is submitted to the ~~Principal~~ **Councillor** Conduct Officer.

The ~~Principal~~ **Councillor** Conduct Officer is to ascertain (in writing) whether or not the other Councillor is prepared to participate in the mediation. If the Councillor declines to participate in the mediation, they are to provide their reasons for not doing so in writing to the ~~Principal~~ **Councillor** Conduct Officer. These reasons may be taken into account if the matter is subsequently the subject of an application for a Councillor Conduct Panel.

If the other party agrees to participate in mediation, the ~~Principal~~ **Councillor** Conduct Officer is to advise the party seeking the mediation, the Lord Mayor and CEO.

The ~~Principal~~ **Councillor** Conduct Officer will engage the services of an external mediator to conduct the mediation at the earliest opportunity.

All parties will cooperate with the dispute resolution process and provide reasonable assistance to the external mediator and the ~~Principal~~ **Councillor** Conduct Officer.

If the parties cannot resolve the dispute at the mediation meeting, a further meeting may be convened with the consent of both parties.

The mediator is to document any agreement reached. Copies of the agreement are to be provided to both parties and the ~~Principal~~ **Councillor** Conduct Officer.

Where the dispute remains unresolved, a Councillor may request the appointment of an arbiter.

3.6.3 ~~APPOINTMENT OF AN ARBITER~~ INTERNAL ARBITRATION PROCESS

An **internal** arbitration involves a party (the Applicant) to a dispute requesting the ~~Principal Councillor~~ **Registrar** ~~Conduct Officer~~ to appoint an impartial third party (the Arbiter) to make findings in the relation to allegations concerning another Councillor(s) (the Respondent) and whether they have **engaged in misconduct under the Act** ~~breached the Code or Council's policies or procedures.~~

An application for an internal arbitration process to make a finding of misconduct against a Councillor can be made by:

- **Council following a resolution of Council; or**
- **a Councillor or a group of Councillors.**

The application must:

- ~~specify the name of the Councillor/Respondent who is the subject of the allegation or complaint~~
- ~~specify the provision(s) of the Code and/or Council's policy or procedure that the dispute/allegation relates to~~
- **specify the name of the Councillor alleged to have breached the conduct standards.**
- **specify the clause of the conduct standards in the *Local Government (Governance and Integrity) Regulations 2020* that the Councillor is alleged to have breached.**
- **specify the misconduct that the Councillor is alleged to have engaged in that resulted in the breach of the conduct standards.**
- include evidence in support of the allegation
- name the Councillor appointed to be their representative where the application is made by a group of Councillors
- be signed and dated by the Applicant or the Applicant's representative

- be made within three months of the alleged misconduct occurring
- be given to the Principal Councillor Conduct Registrar in the manner specified by the Principal Councillor Conduct Registrar in any guidelines published under section 149(1)(c) of the Act.

After receiving an application the Councillor Conduct Officer will provide the application to the Councillor who is the subject of the application.

An Applicant may withdraw an application for arbitration at any time. Once an application has been withdrawn, the same or a similar application relating to the same issues or dispute in relation to the other Councillor cannot be resubmitted by the Applicant.

On receiving an application, the Principal Councillor Conduct Registrar Officer will:

- advise the CEO (and the Lord Mayor as appropriate) of the application without undue delay
- ~~provide a copy of the application to the Respondent who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application~~
- identify an Arbiter to hear the application
- obtain from the Arbiter written advice that they have no conflict of interest in relation to the Councillors involved
- notify the parties of the name of the proposed Arbiter and provide them with the opportunity (two working days) to object to the person proposed to be the Arbiter
- consider the grounds of any objection and appoint the proposed Arbiter or identify another Arbiter
- provide a copy of the Application to the Arbiter as soon as practicable after the opportunity for the parties to object to an Arbiter has expired
- after consultation with the Arbiter, advise the Applicant and the Respondent of the time and place for the hearing
- attend the hearing(s) and assist the Arbiter in the administration of the process.

The Principal Councillor Conduct Registrar, after examining an application, will appoint an arbiter to Council to hear the matter if satisfied that:

- the application is not frivolous, vexatious, misconceived or lacking in substance.
- there is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct as specified in the application.

In identifying an Arbiter to hear the application, the Principal ~~Councillor~~ Conduct Registrar ~~Officer~~ will select an Arbiter who is suitably independent and able to carry out the role fairly. **The arbiter must be selected from a panel of eligible persons established by the Secretary to conduct an internal arbitration process.**

The role of the Arbiter includes:

- consider an application alleging a contravention of the Code or breach of Council's policies or procedures
- make findings in relation to the application
- provide a written statement of reasons supporting the findings to the parties at the same time as providing the findings to Council
- recommend an appropriate sanction or sanctions where the Arbiter has found that a Councillor has contravened the Code or Council's policies or procedures.

In considering an application alleging a contravention, an Arbiter will:

- in consultation with the ~~Principal~~ Councillor Conduct Officer, fix a time and place to hear the application
- authorise the ~~Principal~~ Councillor Conduct Officer to formally notify the Applicant and the Respondent of the time and place of the hearing
- hold as many meetings as they consider necessary to properly consider the application. The Arbiter may also hold a directions hearing.
- have discretion to conduct the hearings as they deem fit while ensuring that the hearings are conducted with as little formality and technicality as is due and proper to consider the application
- ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter
- consider an application by a party to have legal representation at the hearing
- ensure that the rules of natural justice are observed and applied in the hearing of the application
- ensure that the hearings are closed to the public and held in confidence
- **ensure that a Councillor who is a party to an internal arbitration process does not have a right to representation unless the arbiter considers that representation is necessary to ensure that the process is conducted fairly**
- **conduct the hearings with as little formality and technicality as the proper consideration of the matter permits.**

Where an application to have legal representation is granted by an Arbiter, the costs of the Councillor's legal representation are to be borne by the Councillor in their entirety.

An Arbiter:

- may find that a Councillor who is a Respondent to an application has not **engaged in misconduct** ~~contravened the Code or Council's policies and procedures~~
- may find that a Councillor has **engaged in misconduct** ~~breached the Code or Council's policies or procedures~~
- **may hear each party to the matter in person or solely by written or electronic means of communication**
- **is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit**
- **may at any time discontinue the hearing if the arbiter considers that the application is vexatious, misconceived, frivolous or lacking in substance or the applicant has not responded, or has responded inadequately, to a request for further information.**
- will suspend the process during the election period for a general election
- **must refer the matter in writing to the Principal Councillor Conduct Registrar if the arbiter believes that the conduct that is the subject of the application for an internal arbitration process appears to involve serious misconduct and would more appropriately be dealt with as an application to the Councillor Conduct Panel under section 154 of the Act.**

The Arbiter is to provide a copy of his or her findings and the statement of reasons to:

- **Council**
- **The applicant or applicants**
- **The Councillor who is the subject of the allegation.**
- **The Principal Councillor Conduct Registrar.**

~~Council and the parties. At the same time the Arbiter provides the findings and statement of reasons, they shall, where a Councillor has been found to have contravened the Code or Council's policies or procedures, recommend an appropriate sanction or sanctions for the contravention for consideration by Council.~~

A copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after Council has received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting. If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted before submission to the Council meeting.

~~A copy of the Arbiter's findings, statement of reasons and any recommended sanctions is to be submitted, as far as is practicable, to the next ordinary meeting of Council for its consideration.~~

If an arbiter has **made a finding of misconduct** found that a contravention of the Code or Council's policies or procedures has occurred, Council may, after considering the **arbiter may** ~~Arbiter's findings, statement of reasons and recommendation on sanctions, provide any or all of the following written directions to the Councillor~~ **do any one or more of the following:**

- direct the Councillor to make an apology in a form or manner specified by **the arbiter** ~~Council~~
- **suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month**
- **direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter**
- **direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter**
- **direct a Councillor to attend or undergo training or counselling specified by the arbiter**
- ~~direct the Councillor to not attend up to, but not exceeding, two meetings of Council (in respect of the next scheduled meetings of Council)~~
- ~~direct that, for a period of up to, but not exceeding, two months on a date specified by the Council, the Councillor:~~
 - ~~— be removed from any position where the Councillor represents Council; and~~
 - ~~— to not chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.~~

A Councillor will cooperate with the arbitral process and provide reasonable assistance to the Arbiter.

An application cannot be made for an internal resolution by arbitration during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the Respondent to an application for an arbitration is not returned to office as a Councillor in the election, the application lapses. If the Respondent is returned to office in the election, the application may resume if:

- the application was made by Council and Council so resolves; or
- the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- the Applicant (individual Councillor) is returned to office and wishes to proceed with the application.

3.6.4 FAILURE TO PARTICIPATE IN INTERNAL **ARBITRATION PROCESS** **RESOLUTION PROCEDURE**

A Councillor who does not participate in the internal **arbitration** ~~resolution~~ procedure may be guilty of **serious** misconduct. [The Act](#) provides that **serious** misconduct by a Councillor means any of the following:

- failure by a Councillor to comply with the Council's internal arbitration process
- failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147
- the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor
- failure of a Councillor to comply with a direction of a Councillor Conduct Panel
- continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b) of the Act
- bullying by a Councillor of another Councillor or a member of Council staff;
- conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or member of Council staff.
- the disclosure by a Councillor of information the Councillor knows or should reasonably know, is confidential information;
- conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff.
- the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with the Act.
- ~~failure by a Councillor to comply with Council's internal resolution procedure~~
- ~~failure by a Councillor to comply with a written direction given by Council under section 81AB~~
- ~~repeated contravention of any of the Councillor conduct principles.~~

Allegations of **serious** misconduct are heard on application to the Principal **Councillor** Conduct Registrar.

3.6.5 INVESTIGATION

A Councillor or a group of Councillors may make a request of the CEO to initiate an investigation in respect to serious allegations of disrespectful conduct.

A confidential preliminary investigation takes place on a 'without admission' basis, independent of the Council, and is required to determine, to an appropriate level of proof, whether the conduct that is alleged did indeed take place and whether the conduct of a Councillor may present a serious risk to occupational health and safety.

Allegations that call into question the safety of the City of Melbourne workplace to a serious extent must be managed appropriately, and investigated if necessary, in order for the Council and the CEO to meet their corporate and individual OHS obligations.

Where the application concerns an allegation that a Councillor has ~~contravened the Code or~~ engaged in disrespectful conduct against another Councillor, the application must:

- specify the name of the Councillor who is the subject of the allegation or complaint
- specify the provision(s) of the Code and/or Council's policies and procedures that the allegation relates to
- include evidence in support of the allegation
- name the Councillor appointed to be their representative where the application is made by a group of Councillors
- be signed and dated by the Applicant or the Applicant's representative.

The CEO may commence an investigation on receipt of an application from a Councillor. In instances where there may be serious concerns about a risk to the health and safety of a Councillor, Councillors, Council staff or the community, the CEO may also initiate the investigation at his or her own initiative.

After receiving an application from a Councillor or at the CEO's own initiative the CEO will obtain legal advice from Council's Legal Counsel or from Council's external legal advisor as to whether or not the complaint should be investigated.

The legal advice will consider the merits of the complaint and whether the allegation(s), if substantiated, would amount to a breach of relevant legislation, this Code or Council's policies or procedures. A confidential and legally privileged investigation will only be commissioned if it is in the best interests of Council. Matters which are frivolous, vexatious or that appear to be politically motivated will not be investigated.

If the legal advice recommends investigation of the complaint, the CEO will appoint a suitably qualified investigator to investigate the allegation(s). The investigator will adopt a fair process and conduct a thorough and impartial investigation in accordance with natural justice principles.

Councillors will cooperate with the investigation and attend interviews with the investigator if requested. The Respondent(s) to the allegation(s) will be given an opportunity to respond to the allegation(s) and submit evidence in support of their response. A Councillor who is the subject of an independent investigation agrees, on a 'without admission' basis, to voluntarily take leave during the course of the investigation.

At the conclusion of the investigation, the investigator will provide their confidential written report (the investigation report) to Council's legal advisors including the investigator's findings in relation to the allegation(s). If an allegation is substantiated, the investigator will make a finding as to whether the substantiated conduct would amount to a breach of the Code or Council's policies or procedures.

Following the investigation, the CEO may, following the receipt of legal advice, take the following actions, including:

- recommending to Council that respectful conduct training is provided for Councillor(s), or that a Councillor make an apology in a particular form or manner to an individual or group
- recommending that Council make a public statement regarding the findings of the investigation report, and/or release a summary of the investigation report
- referring the findings to the Chief Municipal Inspector or other appropriate authority for further investigation.

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SECTION 4: DEFINITIONS

Chief Executive Officer	The Chief Executive Officer of Council of the City of Melbourne
Chief Municipal Inspector	The Chief Municipal Inspector is responsible for investigating and prosecuting possible breaches and offences under the <i>Local Government Act 2020 1989</i> , investigating allegations of Councillor misconduct, serious misconduct and gross misconduct, making an application for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor and making an application to the Victorian Civil and Administrative Tribunal for a finding of gross misconduct by a Councillor.
conflict of interest	<p>A Councillor has;</p> <ul style="list-style-type: none"> • a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty. • a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. where a reasonable and informed person would perceive they could be influenced by a private interest when carrying out their public duty.
Conduct Standards	The standards of Councillor conduct prescribed under Schedule 1 to the <i>Local Government (Governance and Integrity) Regulations 2020</i> .
Councillor	All references to 'Councillor' include the Lord Mayor, Deputy Lord Mayor and elected members of the Melbourne City Council except as expressly provided.
Councillor Conduct Panel	A panel established under the <i>Local Government Act 2020 1989</i> to hear applications and make findings of alleged misconduct or serious misconduct by a Councillor.
disrespectful conduct	'Disrespectful conduct' includes unlawful discrimination, sexual and other forms of harassment, victimisation, racial and religious vilification, and bullying.
employee	An employee of Council includes all members of staff, contractors and volunteers under the direct control or supervision of the City of Melbourne.

gross misconduct	‘Gross misconduct’ by a Councillor means behaviour that demonstrates that a Councillor is not of good character or is otherwise not a fit and proper person to hold the office of Councillor, including behaviour that is sexual harassment and that is of an egregious nature.
improper conduct	‘Improper conduct’ includes a failure to disclose a conflict of interest, a breach of confidentiality, the improper direction or influence of staff, the improper use of Council resources, or a breach of Council policy under the Code of Conduct by a Councillor.
Independent Respectful Conduct Advisor (IRCA)	An independent external advisor available to Councillors to provide advice and assistance on matters relating to disrespectful conduct under the Code of Conduct including options for reporting and resolving complaints.
misconduct	<p>Misconduct by a Councillor means any breach by a Councillor of the prescribed conduct standards included in this Councillor Code of Conduct any of the following:</p> <ul style="list-style-type: none"> • failure by a Councillor to comply with Council's internal resolution procedure; or • failure by a Councillor to comply with a written direction given by Council following a finding the Councillor has contravened the Code of Conduct; or • repeated contravention of any of the Councillor conduct principles.
Principal Councillor Conduct Officer	A person appointed by the Chief Executive Officer to assist Council in implementing its internal arbitration process resolution procedure.
Principal Councillor Conduct Registrar	The Principal Councillor Conduct Registrar receives applications for the establishment of Councillor Conduct Panels under the <i>Local Government Act 2020</i> 1989 .
Secretary	Secretary to the Department of Environment, Land, Water and Planning
serious misconduct	<p>Serious misconduct by a Councillor means:</p> <ul style="list-style-type: none"> • failure by a Councillor to comply with the Council’s internal arbitration process • failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147 • the failure of a Councillor to attend a Councilor Conduct Panel

- hearing in respect of that Councillor.
- failure of a Councillor to comply with a direction of a Councillor Conduct Panel
- continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b) of the *Local Government Act 2020*.
- bullying by a Councillor of another Councillor or a member of Council staff;
- conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or member of Council staff.
- the disclosure by a Councillor of information the Councillor knows or should reasonably know, is confidential information;
- conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff.
- the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with the *Local Government Act 2020*.
- ~~• the failure of a Councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor; or~~
- ~~• the failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give; or~~
- ~~• the failure of a Councillor to comply with a direction of a Councillor Conduct Panel; or~~
- ~~• continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by a Councillor Conduct Panel; or~~
- ~~• bullying of another Councillor or member of Council staff by a Councillor; or~~
- ~~• improper direction or influence by a Councillor in respect of a member of Council staff; or~~
- the release of confidential information by a Councillor.

The Act

All references to 'the Act' are to the *Local Government Act 2020* ~~1989~~.

APPENDIX 1: INCORPORATED RELEVANT DOCUMENTS

There are five incorporated documents that Councillors commit to adhering to in signing the Code. They are:

[Councillor Protocol](#)

[Councillor Expenses ~~Policy 2020~~ and Resources Guidelines 2017](#)

[Councillor Fitness to Carry Out Duty Policy](#)

[Councillor Occupational Health and Safety Policy](#)

[Councillor Respectful Conduct Policy](#)

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APPENDIX 2: RELEVANT LEGISLATION

[Local Government Act 2020 ~~1989~~](#) (Vic)

[Local Government \(Governance and Integrity\) Regulations 2020](#) (Vic)

[City of Melbourne Act 2001](#) (Vic)

[Child Wellbeing and Safety Act 2005](#) (Vic)

[Equal Opportunity Act 2010](#) (Vic)

[Occupational Health and Safety Act 2004](#) (Vic)

[Protected *Public Interest Disclosures* Act 2012](#) (Vic)

[Sex Discrimination Act 1984](#) (Cth)

[Victorian Charter of Human Rights and Responsibilities Act 2006](#) (Vic)

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APPENDIX 3: COUNCILLOR CONDUCT STANDARDS

1 Treatment of others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—

- (a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the *Equal Opportunity Act 2010*; and
- (b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and
- (c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- (d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

2 Performing the role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor—

- (a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- (b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- (c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

3 Compliance with good governance measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following—

- (a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- (b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- (c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;

(d) any directions of the Minister issued under section 175 of the Act.

4 Councillor must not discredit or mislead Council or public

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

(2) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

5 Standards do not limit robust political debate

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

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Councillor Occupational Health and Safety Policy ~~2018~~ 2020

Adopted by Melbourne City Council on ~~4 September~~ 15 December 2020
2018

1. PURPOSE

The City of Melbourne is committed to providing and maintaining a safe and healthy environment for all persons associated with its operations, including Councillors, employees, contractors, residents and visitors. This applies to our work areas and our community spaces.

Our commitment is based on the principle that occupational health and safety is the most important of all our business objectives, the recognition that workplace injuries can be prevented, that everyone in the organisation should have clearly defined occupational health and safety responsibilities, and that meeting this commitment through the management of our stakeholder relationships is important.

The City of Melbourne Councillor Code of Conduct recognises the provisions of the *Occupational Health and Safety Act 2004* apply to Council and Councillors. Councillors have a role in

- protecting their own and others' health and safety in the workplace
- taking reasonable care through the Chief Executive to ensure a safe workplace.

The purpose of this policy is to

- outline Councillors' responsibilities under the *Occupational Health and Safety Act 2004* and *Occupational Health and Safety Regulations 2017*.
- set out Councillors' and the organisation's obligations in respect of occupational health and safety
- provide guidance to Councillors on how to respond in various scenarios with health and safety implications that may arise in a work setting.

The Chief Executive Officer from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

2. SCOPE

This policy applies to all Councillors at all times when undertaking their roles as elected officers of Melbourne City Council. Councillors within this context include the Lord Mayor and Deputy Lord Mayor. This policy applies to Councillors as individuals in the workplace and as office holders with particular legal responsibilities for occupational health and safety. Health and safety matters include those relating to hazards, risks and incidents, and their physical and as well as psychological consequences on individuals or the community.

The CEO has specific responsibilities to create a safe workplace under the *Occupational Health and Safety Act 2004*, and is so empowered to take certain actions that may impact on the ability of Councillors to perform particular functions in a particular way, consistent with those responsibilities.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct.

3. POLICY

Councillors have agreed, through their Code of Conduct, that Council is committed to providing and maintaining a safe workplace for all and recognises the provisions of the *Occupational Health and Safety Act 2004* apply to Council and Councillors.

4. DEFINITIONS

CEO means the Chief Executive Officer of City of Melbourne.

CoM means the City Of Melbourne.

Council means the Melbourne City Council.

Support Officer means a member of the Councillor Support Team or a member of the Lord Mayor's Office.

Executive Officer Councillor Support is the people leader for the Councillor Support Team.

First aid in the workplace is the provision of emergency treatment and life support for people suffering injury or illness at work".

Hazard means a condition or situation which has the potential to cause injury (physical or psychological).

Immediately notify means as soon as a person becomes involved or aware of the incident, near miss or hazard.

Incident means an event or sequence of events resulting in loss of control over a hazard. Such an incident may result in injury to an employee, Councillors, contractor, volunteer or visitor.

Medical treatment means is treatment required without delay after an incident is termed 'immediate medical treatment'. *The Medical Treatment Act 1988* defines medical treatment as the carrying out of:

- (a) an operation;
- (b) the administration of a drug or other like substance; or
- (c) any other medical procedure – but does not include palliative care.

Medical treatment does not include procedures carried out for diagnostic purposes only.

Near miss means an incident/event which had the potential to cause personal injury or damage to equipment/machinery, property or facilities.

OHS means Occupational Health and Safety

OHSMS is a combination of the planning and review, the management organisational arrangements, the consultative arrangements, and the specific program elements that work together in an integrated way to improve health and safety.

Principle Councillor Conduct Officer is a person appointed by the Chief Executive Officer to assist Council in implementing its internal **arbitration process** ~~resolution procedure~~.

Workplace means any place where a person attends for the purpose of carrying out any functions in relation to his or her employment, occupation, business, trade or profession and need not be a person's principal place of business or employment.

5. RESPONSIBILITIES

Each Councillor has agreed that they understand that Occupational Health and Safety is a shared responsibility.

Responsibilities relating to this policy are as follows:

Councillors will:

- Make themselves familiar with the provisions of this policy and procedure, raise any concerns or questions about the policy's coverage or application and adhere to the policy.
- Take reasonable care to protect their own health and safety, as well as the health and safety of others in the workplace.
- Attend and participate in all CoM required training, to maintain understanding of the duties and obligations imposed by the *Occupational Health and Safety Act 2004* and their application to the broad range of activities undertaken by CoM.
- Comply with the Councillor Occupational Health and Safety Policy and associated reporting procedures.
- Participate where required in the resolution of safety issues.
- Consider any health and safety implications for Council decisions.

The City of Melbourne will:

- As far as reasonably practicable, provide a safe workplace that is without risks to the health of Councillors performing their civic duties, by ensuring appropriate systems and policies are in place to manage those risks.
- Proactively monitor the workplace to identify hazards, assess risks and implement control measures where it is reasonably practical to do so.
- Take all reasonable steps to ensure organisational compliance to the organisation's OHS Policy and the continuous improvement of the CoM OHS Management System.
- Provide training opportunities to assist Councillors to achieve and maintain understanding of the duties and obligations imposed by the *Occupational Health and Safety Act 2004* and their application to the broad range of activities undertaken by CoM.
- Adhere to all principles and lawful requirements of the *Workplace Injury Rehabilitation and Compensation Act 2013* following any work related injury.

6. INCIDENT AND HAZARD REPORTING PROCEDURES

All hazards, near misses and incidents that occur as a result of Councillors conducting the business of Council, acting as a representative of Council, including as part of attending Council related functions, during or outside normal Council hours must be reported.

In most cases where Councillors notice something unsafe, it will be appropriate for them to notify a Support Officer. The Support Officer will complete an online hazard/incident report in accordance with CoM's Incident/Hazard Reporting and Investigation Policy and Procedure.

The Executive Officer Councillor Support will then conduct an incident investigation and risk assessment and document any actions to be taken to control the risk. Alternatively, the Executive Officer Councillor Support may refer the matter to another City of Melbourne manager for investigation and action.

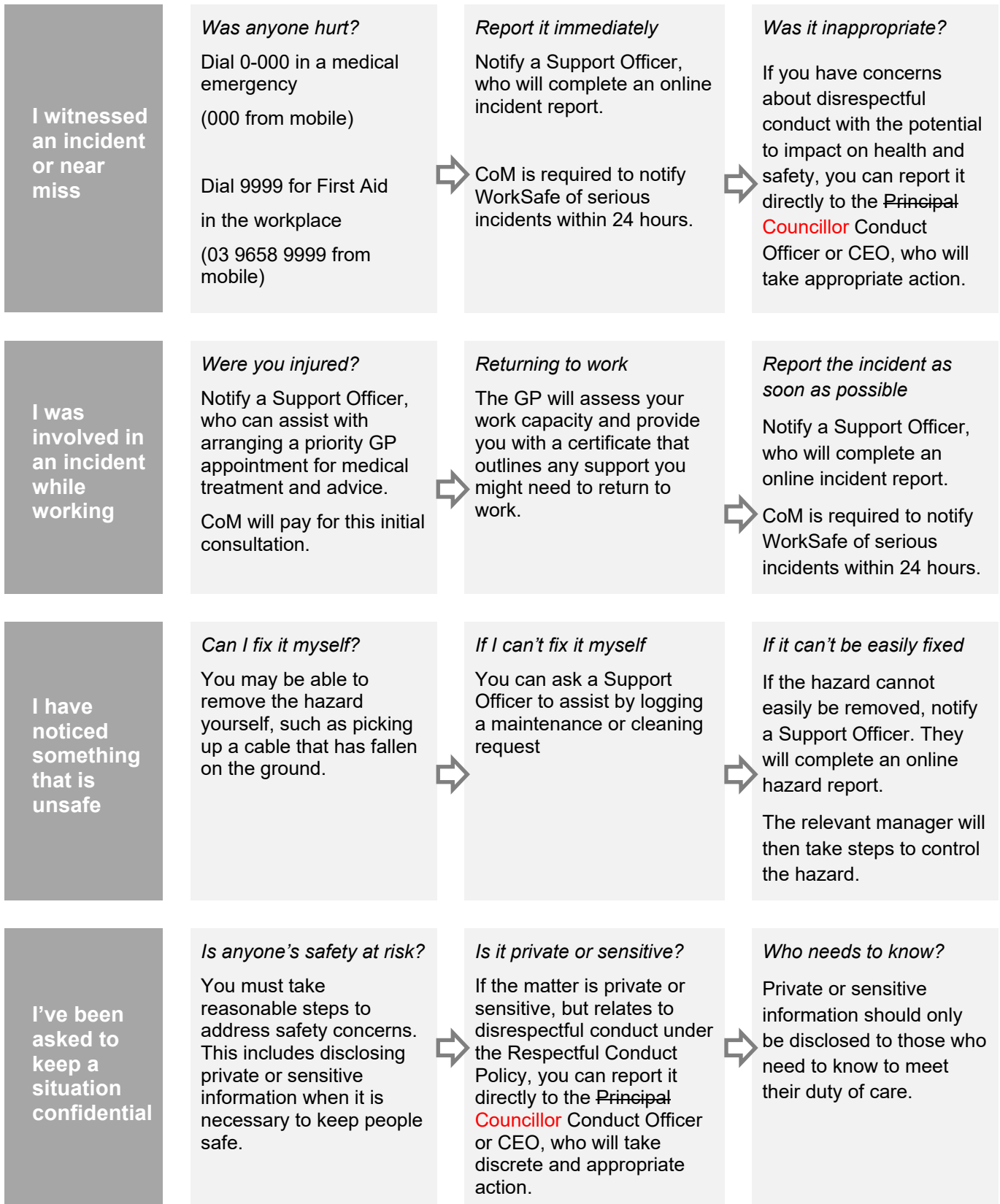
If the issue relates to potential psychological injury arising from disrespectful conduct under the Councillor's Respectful Conduct Policy, the issue must be reported, and it may be more appropriate to report the matter to the ~~Principal~~ **Councillor** Conduct Officer or CEO. If the CEO has serious concerns about a risk to the health and safety of a Councillor, Councillors, Council staff or the community, the CEO has overall accountability to take appropriate action to ensure the safety of all.

6.1 Incident close-off and report-back

Depending on the issue, the Support Officer, Executive Officer Councillor Support, ~~Principal~~ **Councillor** Conduct Officer or CEO will notify the Councillor of the outcome of hazard or incident once addressed.

7. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.



8. RELATED POLICIES AND RESOURCES

- City of Melbourne Councillor Code of Conduct
- City of Melbourne Councillor Fitness to Carry Out Duty Policy
- City of Melbourne Respectful Conduct Policy
- *Occupational Health and Safety Act 2004*



Councillor Respectful Conduct Policy **2020** ~~2018~~

Adopted by Melbourne City Council on **15 December 2020** ~~4 September~~
~~2018~~

1. PURPOSE

Councillors through their Code of Conduct have committed to work together with one another in a respectful and constructive manner to achieve the goals and vision for the city. Councillors have further acknowledged they have been elected by the community to a position of significant responsibility with the expectation that they will act in accordance with accepted values of our society.

The purpose of the Councillor Respectful Conduct Policy ~~2018~~ 2020 is to establish a framework to identify and manage inappropriate conduct by Councillors that falls short of this standard.

This policy reflects the obligations on Council to promote and support a workplace that is free from unlawful discrimination, sexual harassment, victimisation, racial and religious vilification and workplace bullying and comply with applicable laws contained in relevant equal opportunity legislation.

The Chief Executive Officer (CEO) from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

2. SCOPE

This policy applies to Councillors with respect to their conduct towards fellow Councillors and Council employees. For the avoidance of doubt, this policy applies equally to all Councillors, including the Lord Mayor and Deputy Lord Mayor.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct, nor any legislation setting out alternative avenues that may be available to a Councillor or Councillors in respect of matters mentioned in this policy.

The processes outlined in this policy may run concurrently with any processes set out in the Councillor Code of Conduct, the *Local Government Act* ~~1989~~ 2020 and any other legislation.

Council has separate policies regarding unlawful discrimination, sexual harassment, victimisation, racial and religious vilification and workplace bullying that apply to Council employees.

This policy applies when Councillors are conducting the business of Council or acting as a representative of Council, irrespective of location, during or outside normal Council hours.

This policy sits independently of, and neither changes nor detracts from, the Meetings Local Law and Meeting Procedures Code.

3. POLICY

The Council is committed to upholding the principle of equal opportunity by treating all people with dignity and respect.

Council will not tolerate disrespectful conduct by Councillors, namely conduct that would amount to unlawful discrimination, harassment (including sexual harassment), victimisation, racial and religious vilification or workplace bullying if the Councillor were an employee of Council.

These terms are explained below.

3.1 UNLAWFUL DISCRIMINATION

Unlawful discrimination means direct or indirect discrimination on the basis of a protected attribute.

Protected attributes are specifically listed in anti-discrimination legislation.

Protected attributes include the following:

- Age
- Breastfeeding
- Disability or impairment
- Employment activity
- Gender identity
- Industrial activity
- Intersex status
- Lawful sexual activity
- Marital or relationship status
- Status as a parent or carer
- Physical features
- Political belief or activity
- Pregnancy
- Race
- Religious belief or activity
- Sex
- Sexual orientation
- Association with someone who is identified by a protected attribute.

Direct discrimination occurs if a person treats another person with a protected attribute unfavourably because of that protected attribute.

Some examples of direct discrimination are:

- Not offering computer training to an older Councillor because of his age and a view that they will not be involved in Council for much longer.
- Excluding a Councillor from participation on a Committee because of a protected attribute, for example, their religious belief or age.

Indirect discrimination occurs if a person imposes a requirement, condition or practice that disadvantages a person with a protected attribute and that requirement, condition or practice is not reasonable.

Some examples of indirect discrimination are:

- Holding a Council team building event at a sporting venue that does not permit access or participation by a Councillor with a disability.
- Making it a requirement that Councillors be members of a political party in order to be a member of a committee.

Unlawful discrimination can occur even if you do not intend to discriminate.

3.2 HARASSMENT

Harassment occurs when someone engages in conduct that would make a reasonable person feel offended, humiliated or intimidated because of their age, race, religion, sex or some other attribute specified under anti-discrimination legislation.

Some examples of harassment are:

- Ageist or racist comments or jokes about another Councillor
- Isolating a Councillor because they have a disability.

A person's intention or motive for conduct that constitutes harassment is irrelevant to whether unlawful harassment has taken place.

3.3 SEXUAL HARASSMENT

Sexual Harassment means unwelcome conduct of a sexual nature where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated. The intention of the harasser is irrelevant.

Some examples of sexual harassment are:

- Repeatedly asking another Councillor to go on a date when that person has already declined.
- Sending an email to another Councillor with sexually explicit images attached.

3.4 RACIAL OR RELIGIOUS VILIFICATION

Racial or religious vilification means conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, a person or group of persons on the basis of their race or religious belief. Serious racial or religious vilification involves a threat to harm another person or their property, and is a criminal offence.

Some examples of racial or religious vilification are:

- Sending an email to your colleagues that ridicules Muslims or Christians.

- Making threats to harm a colleague because he is a Muslim (serious religious vilification).

A person's intention or motive for conduct that constitutes racial or religious vilification is irrelevant to whether such vilification has taken place.

3.5 VICTIMISATION

Victimisation means unfavourable treatment of a fellow Councillor who reports or complains about any of the conduct covered by this policy.

Some examples of victimisation are:

- Denying a Councillor access to information shared with other Councillors because she has made a complaint about unlawful discrimination.
- Excluding or isolating a Councillor because he has made a complaint of sexual harassment against one of your Councillor friends.

3.6 BULLYING

Bullying is repeated unreasonable behaviour directed towards another Councillor or member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor or member of Council staff.

'Unreasonable behaviour' is behaviour that a reasonable person, having regard to all the circumstances, believes or expects would victimise, humiliate, undermine or threaten another person.

A broad range of behaviours can be considered to be bullying. Some examples of behaviour that may constitute bullying are:

- verbal abuse, insults or name-calling
- continually making jokes about a person, or singling out one person for remarks more often than others in a group
- personal attacks, threats, intimidation and misuse of power
- deliberate exclusion or isolation
- deliberately withholding information from someone where that information is essential to their ability to perform their work effectively.

A single incident of unreasonable behaviour, while not bullying, may still create a risk to health and safety and will not be tolerated by Council.

4. RESPONSIBILITIES

4.1 Councillors will:

- treat all people with dignity and respect.
- report any unacceptable conduct, consistent with the Councillor Code of Conduct.
- ensure their behaviour is appropriate at all times and in accordance with the City of Melbourne's values.
- cooperate with any investigation into, or arbitration of, a complaint made under this policy.
- other than reporting to appropriate people as set out in the Councillor Code of Conduct, maintain confidentiality regarding any complaint raised under this policy, unless the Councillor has been given explicit permission by the individual bringing the complaint or they are legally obliged to provide information to appropriate authorities.
- not make or cause to make a vexatious, false or frivolous complaint.
- maintain a professional and safe work environment free from unacceptable conduct
- take reasonable and proportionate measures to prevent unacceptable conduct as far as possible.

4.2 The ~~Principal~~ **Councillor** Conduct Officer and Chief Executive Officer will:

- assist Council in the implementation of the following procedure
- ensure that support and assistance is available to all Councillors where it is required
- apply natural justice principles in addressing any allegation of disrespectful conduct.

5. PROCEDURE FOR DEALING WITH ALLEGED BREACHES OF THIS POLICY

Councillors are expected to use their best efforts to resolve disputes in a respectful and courteous manner. If a Councillor believes that this policy has been breached, the Councillor should adopt the steps set out in section 3 of the Councillor Code of Conduct.

5.1 OTHER RESOURCES AND SUPPORT

INDEPENDENT RESPECTFUL CONDUCT ADVISOR

At any time when a Councillor has a complaint or concerns relating to a breach under this policy they may also make contact with the Independent Respectful Conduct Advisor (IRCA).

The IRCA will support Councillors in clarifying their rights and obligations and making decisions about appropriate avenues to report complaints under this policy. Whilst the IRCA is retained by Council, the Councillor can meet with them on a confidential basis.

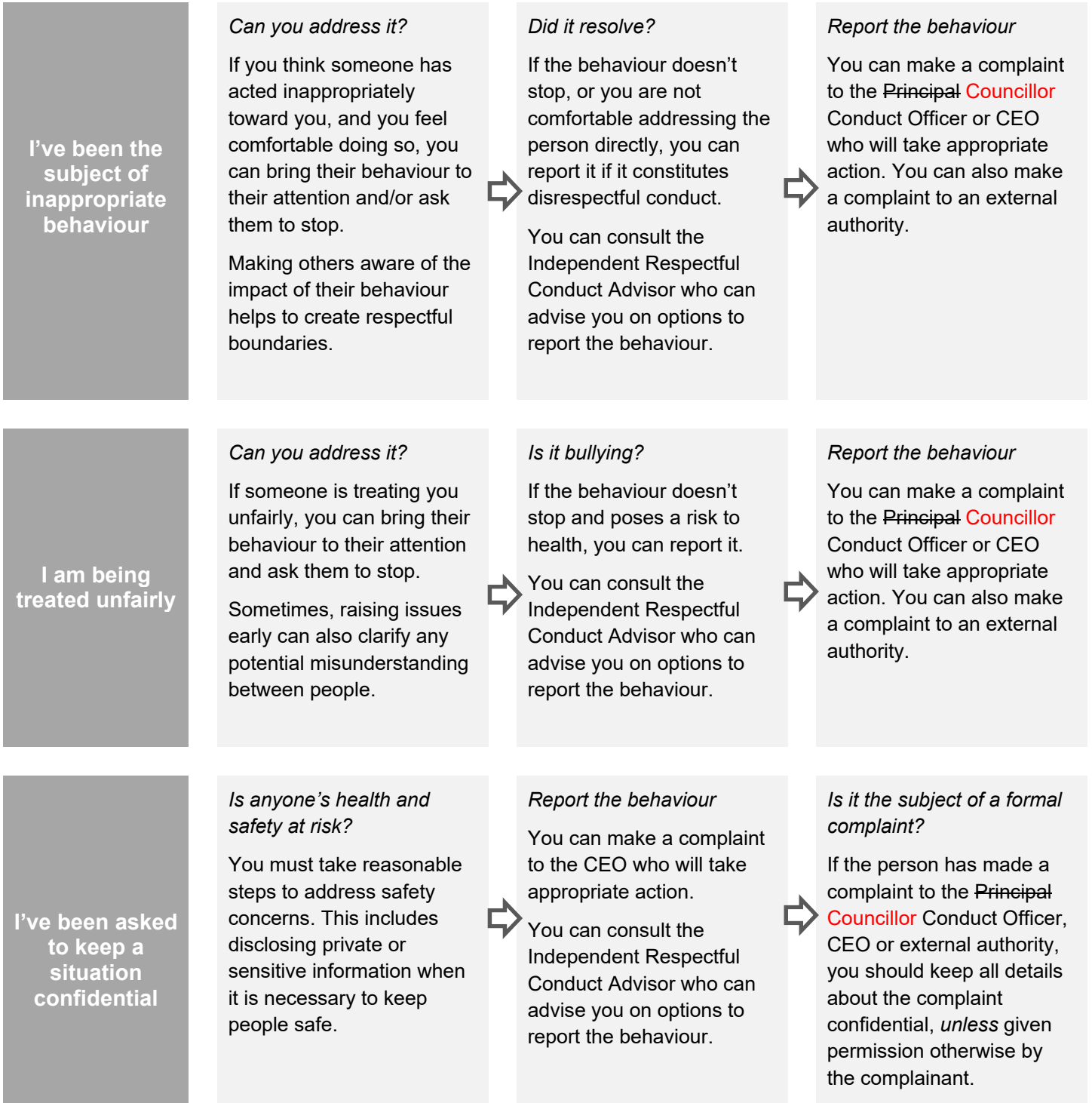
If the IRCA believes an issue has been brought to their attention that creates a risk to the health and safety of a Councillor or another person, they may raise the matter with the CEO on a confidential basis.

EMPLOYEE ASSISTANCE PROGRAM

Councillors will have access to the Employee Assistance Program as ordinarily extended to City of Melbourne employees should they require general counselling support in relation to any matters covered by this policy.

6. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.



7. RELATED POLICIES AND RESOURCES

City of Melbourne Councillor Code of Conduct

City of Melbourne Councillor Occupational Health and Safety Policy

Charter of Human Rights and Responsibilities Act 2006 (Vic).

Age Discrimination Act 2004 (Cth)

Disability Discrimination Act 1992 (Cth)

Equal Opportunity Act 1995 (Vic) and its successor the *Equal Opportunity Act 2010* (Vic)

Fair Work Act 2009 (Cth)

Fair Work Regulations 2009 (Cth)

Human Rights and Equal Opportunity Commission Act 1986 (Cth)

Human Rights and Equal Opportunity Commission Regulations 1998 (Cth)

Privacy and Data Protection Act 2014 (Vic)

Local Government Act 2020 ~~1989~~ (Vic)

Local Government (Governance and Integrity) Regulations 2020 (Vic)

Occupational Health and Safety Act 2004 (Vic)

Public Administration Act 2004 (Vic)

Racial Discrimination Act 1975 (Cth)

Racial and Religious Tolerance Act 2001 (Vic)

Sex Discrimination Act 1984 (Cth)

Workplace Gender Equality Act 2012 (Cth)



Councillor Fitness to Carry Out Duty Policy 2020 ~~2018~~

Adopted by Melbourne City Council on 15 December 2020 ~~4 September 2018~~

1. PURPOSE

The City of Melbourne is committed to enabling Councillors to fulfil their duties to the best of their abilities to ensure that the functions of the Council are achieved in accordance with legislative requirements and good governance.

Where a Councillor has known disabilities, the City of Melbourne will make all reasonable and necessary adjustments to support them in undertaking their role. This is not considered to be related to issues of fitness to carry out duty.

Councillors have also committed to take reasonable care to protect their own health and safety as well as the health and safety of others in the workplace.

The purpose of this policy is to:

- make Councillors aware of when and how to access support when they cannot fulfil their duties to the best of their abilities
- outline factors and circumstances which may impact a Councillor's fitness to perform all duties while in the role of Councillor
- set out the obligations of Councillors to make confidential disclosures regarding impacts on their abilities to undertake all duties
- set out the obligations of the Chief Executive Officer (CEO) on dealing with fitness for duty issues impacting a Councillor and/or other persons in the workplace.

2. SCOPE

This policy applies to all City of Melbourne Councillors, including the Lord Mayor and Deputy Lord Mayor. This policy applies to all issues which may impact on a Councillor's fitness to perform duties while undertaking the role of Councillor, including without limitation physical and psychological conditions and substance abuse.

This policy is incorporated in the Councillor Code of Conduct. Nothing in this policy changes or detracts from the operation of other provisions in the Councillor Code of Conduct.

Where a Councillor is not fit to perform their duties, they may advise the CEO as set out in this policy and supporting arrangements will be made to either support the Councillor to continue in the role or enable them to return to their role as quickly as possible.

In cases where a Councillor chooses not to disclose their unfitness and to continue to undertake their duties, this may constitute a health and safety risk for both the Councillor and others. In those situations it may then be incumbent on the CEO to take steps in accordance with their legal obligations to manage the situation.

The CEO from time to time, in consultation with Councillors, can make minor changes to this policy to reflect contemporary best practice.

3. FITNESS FOR DUTY AND DISCLOSURE OBLIGATIONS

3.1 Identifying a fitness for duty concern

A person is fit for duty when they are in a mental and physical state of health which allows them to competently perform the inherent or genuine and reasonable requirements of their role and in a manner which does not compromise or threaten the safety or health of themselves or others.

Common indicators of an issue concerning or impacting fitness may include:

- impaired physical function, including mobility
- unexplained or excessive absences or unreasonable habitual lateness
- problems with memory, speech or co-ordination
- disproportionate or excessive aggressive outbursts towards another person or in response to any discussion
- unusual drowsiness or fatigue
- concerning physical changes.

Councillors acknowledge that a physical or psychological impairment may impact on their fitness to carry out duty.

3.2 Consumption of alcohol and drugs

Councillors acknowledge that consumption of alcohol and other drugs (even if legal and prescribed), may impact on the satisfactory performance of their duties. Further, such activity may negatively impact on the working environment and affect other persons, including other Councillors, Council staff and the community.

Substance abuse which impacts on the ability of a Councillor to satisfactorily undertake duties as part of their role or which poses risks to others may result in the Councillor being considered to be unfit to carry out duty.

3.3 Other factors and circumstances impacting fitness

Councillors acknowledge that there are a range of other things that may impact on fitness for duty, including fatigue, general physical health, or specific health situations. This could mean a Councillor's physical or mental health is temporarily affected, or affected over a longer period of time, such that their ability to function in the role may be compromised.

3.4 Definitions

Alcohol	means ethyl alcohol or ethanol
Drug	means any substance that may result in psychological or behavioural changes that have the potential to reduce a person's fitness to perform duties and impact on performance and safety.
Duty	means the performance of the role and functions of a Councillor or Council as prescribed under the <i>Local Government Act 2020</i>
Substance	includes alcohol, intoxicating products, prescription and non-prescription medication, legal/illegal/illicit drugs whether naturally occurring or synthetic

4. MANAGING FITNESS FOR DUTY

4.1 Confidentiality and privacy

Subject to law, the personal and medical issues impacting a Councillor's fitness to carry out duty, and any disclosure or referral made to the CEO under section 4.2 or 4.3 of this policy, will be kept confidential.

The Privacy and Data Protection Act, the *Health Records Act 2001* and the *Local Government Act 2020* will apply to all documentation and information provided by a Councillor or developed in the course of any disclosure into a matter concerning the fitness to carry out duties of a Councillor. Such documentation or information may be provided to external advisors and agencies on a need to know basis or in accordance with law, and may be subject to obligations of confidentiality.

All Councillors should be mindful of any associated reputational damage to the individual Councillor where there are concerns around fitness to carry out duty. In line with the principle of respect outlined in the Councillor Code of Conduct, no public communications on such matters are permitted.

4.2 Disclosure by Councillor

Where a Councillor considers they may not be fit to undertake their duties, or their fitness has been restricted, or on professional medical advice their fitness has the potential to become restricted, they should notify the CEO.

In consultation with the Councillor, the CEO will put in place necessary and appropriate arrangements and safeguards to allow the Councillor to continue performing their duties.

Depending on the nature of the issue, and the risks to health and safety, arrangements need to be determined on a case by case basis.

4.3 Disclosure about perceived impacts on another Councillor's ability to perform duty

As part of Councillors' commitment to protect their own and each other's health and safety, a Councillor may disclose information to the CEO about concerns regarding perceived impacts on another Councillor's ability to perform their duties. Proactive disclosure supports the CEO to discharge their duty of care around the health and safety of all individuals in the workplace.

Following receipt of a disclosure, the CEO will decide whether the issue needs to be followed up with the Councillor concerned and managed in accordance with this policy.

4.4 Assistance, external advice and referral

In assisting the Councillor whose fitness for duty may be impaired, the CEO may consider any of the following options in consultation with the Councillor:

- provision of ergonomic and rehabilitation resources
- additional support provided by administrative staff as required
- a medical assessment (subject to Councillor consent) and/or return-to-full duties plan
- access to counselling.

In consultation with the Councillor concerned and without disclosing their circumstances, the CEO may discuss with the Lord Mayor (or Deputy Lord Mayor) an adjustment of the Councillor's upcoming duties, or distribution of their duties to other Councillors.

If the Councillor's circumstances give rise to an occupational health and safety risk, then the following section applies.

5. COMPLIANCE WITH ALL LEGISLATIVE AND CODE OF CONDUCT OBLIGATIONS

5.1 Occupational Health and Safety obligations

City of Melbourne is committed to providing and maintaining a work environment that is safe and without risks to health. The CEO is required to put in place and maintain policies and procedures to ensure a safe environment for Councillors and Council staff to carry out their duties, and for third parties both on Council premises and coming into contact with Council's operations and activities.

Where a situation arises where a Councillor is unfit to perform the duties associated with their role, the CEO is required to take all necessary steps in accordance with occupational health and safety legislation and Council's occupational health and safety policies.

In the event that the CEO becomes aware of a situation where, in their opinion, a Councillor's lack of fitness to perform duties poses serious risks to health and safety, Councillors agree that the CEO will take appropriate action to deal with such matters.

Such appropriate steps to reduce any health and safety risk may include, for example:

- restricting the use of Council resources by a Councillor (without curtailing the rights and entitlements granted to Councillors under *the Local Government Act 2020-1989* and *City of Melbourne Act 2001*)
- recommending the Councillor take a temporary leave of absence
- referring the Councillor to appropriate authorities where the circumstances involve broader contravention of the Councillor Code of Conduct.

6. POSSIBLE SCENARIOS

The following scenarios are provided as examples only in order to illustrate how this policy may operate in practice. Failure to follow the steps outlined in these scenarios **does not** necessarily constitute a breach of this policy.

<p>I injured my leg</p>	<p><i>Will this impact your ability to carry out duties?</i></p> <p>You must consider whether an injury sustained at work or outside of work has the potential to impact on your performance.</p> <p>If so, you must report it to the CEO.</p>	<p><i>Report it immediately</i></p> <p>The CEO will assist you to rearrange your workload, reprioritise your duties or request you to seek specialist advice about your fitness.</p>	<p><i>If you take leave</i></p> <p>In some circumstances, where a fitness issue requires you to take temporary leave of absence, the organisation will make appropriate arrangements on your return to work in accordance with its OHS Policy.</p>
<p>I am taking prescription medication which makes me feel faint</p>	<p><i>Will this impact your ability to carry out duties?</i></p> <p>Feeling faint has negative impacts on your capacity as well as your safety at work.</p> <p>If there are potential impacts from the medication on your ability to undertake duties, you should inform the CEO.</p>	<p><i>Disclose it to the CEO</i></p> <p>The CEO will discuss potential options with you to enable you to undertake your duties while minimising risks to your safety. This may include reducing or rearranging your workload, taking temporary leave, and ensuring there is adequate staff support for you.</p>	<p><i>If there is a health and safety risk</i></p> <p>If there is an immediate health and safety risk, the CEO is obliged to take appropriate intervention.</p> <p>Prolonged symptoms of feeling faint may prompt the CEO to require you take leave and/or urge to consult your medical practitioner to review your medication.</p>
<p>I have noticed another Councillor often shows up smelling of alcohol</p>	<p><i>Is their fitness a concern?</i></p> <p>Are there outward serious or persistent signs that the person is having difficulty performing their usual duties?</p>	<p><i>Is there a health and safety risk?</i></p> <p>If this poses a potential risk to the health and safety of the Councillor and/or others, it must be reported to the CEO immediately.</p>	<p><i>Disclose it to the CEO</i></p> <p>Depending on the circumstances, and whether they have serious concerns about health and safety, the CEO may follow up with the Councillor and/or intervene.</p>
<p>I have noticed another Councillor isn't their usual self</p>	<p><i>Is their fitness a concern?</i></p> <p>Are there outward serious or persistent signs that the person is having difficulty performing their usual duties?</p>	<p><i>Disclose it to the CEO</i></p> <p>The CEO will decide whether the matter needs further follow up and whether the issue should be discussed with the Councillor concerned.</p>	<p><i>If there is a health and safety risk</i></p> <p>The CEO will take appropriate steps to address risks to anyone's health and safety. This may include requiring the Councillor to refrain from specific activities.</p>

7. RELATED POLICIES AND RESOURCES

City of Melbourne Councillor Code of Conduct

City of Melbourne Occupational Health and Safety Policy

Local Government Act ~~1989~~ 2020

Local Government (Governance and Integrity) Regulations 2020

Occupational Health and Safety Act 2004

Workplace Injury Rehabilitation and Compensation Act 2013

Equal Opportunity Act 2010

Disability Discrimination Act 1992

Privacy and Data Protection Act 2014

Health Records Act 2001



Councillor Protocol

As adopted by Council on ~~28 May 2019~~ 15 December 2020

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1. Purpose

The Councillor Protocol (the Protocol) provides a set of understandings on the individual and collective roles and responsibilities of Councillors. The Protocol guides Councillors in the conduct of their role, interaction with each other and Council officers and covers processes supporting decision-making and city representation roles of Councillors.

2. Scope

The Protocol

- seeks to complement the function and conduct expectations of Councillors as described in the *Local Government Act 1989* 2020
- recognises the role of Lord Mayor as principal spokesperson for Council as described in the *City of Melbourne Act 2004* *Local Government Act 2020*.

The commitment by Councillors to the expectations in the Protocol is embedded in the Councillor Code of Conduct 2018-2020.

3. Roles and responsibilities

3.1. Lord Mayor

The statutory provisions do not fully define the role and function of the Lord Mayor. As with many other aspects of government, it is tradition, convention and practice that broadens and better defines the role of the Lord Mayor. The Lord Mayor's role has three key functions **as chief representative and principal spokesperson**: to lead the Council in its decision-making, represent the views of Council and its community and act as ceremonial head at events.

3.2. Deputy Lord Mayor

The Deputy Lord Mayor has a leadership and representational role in conjunction with the Lord Mayor. Due to the large number of Mayoral engagements and commitments, the Deputy Lord Mayor is expected to assist in representing the Lord Mayor at various functions and meetings and, upon request from the Lord Mayor, with principal spokesperson responsibilities.

The Deputy Lord Mayor will assume the role of Acting Lord Mayor during periods of absence of the Lord Mayor or at the request of the Lord Mayor.

3.3. Councillors

3.3.1. General

In fulfilling the legislative role of Council, all Councillors shall be guided by the principles in the Council's Code of Conduct. In carrying out their role, Councillors shall:

- provide civic leadership and contribute effectively to the interests and advancement of the Capital City and its community
- contribute to the strategic vision for the City as a Capital City

- participate in deliberations of Committee and Council.

3.3.2. Councillor - Representing the Lord Mayor

Councillors will represent the Lord Mayor at functions and meetings where the Lord Mayor and Deputy Lord Mayor are unavailable. Allocation of representation roles will be made based on portfolio responsibilities of Councillors (see section 3.4 for further protocol).

3.3.3. Councillor - Acting Chair

In exceptional circumstances where both the Lord Mayor and Deputy Lord Mayor are absent from office, the Council or Future Melbourne Committee may appoint an Acting Chair for those segments normally chaired by the Lord Mayor.

3.4. Portfolio **Chair Lead**

3.4.1. Overview

~~As a Committee of Council, the Future Melbourne Committee has been established to guide the policy and strategic direction of the City. The Committee's terms of reference is structured in portfolio segments and Council appoints a Chair and Deputy Chair for each segment.~~

~~A Portfolio Chair shall facilitate the conduct of Committee business within a designated segment and play a key role in the representation of Council in areas covered under the terms of reference. The representational role of a Portfolio Chair is carried out in line with spokesperson and representational protocols outlined in section 5.~~

~~The Deputy Portfolio Chair shall act as Chair in the absence of a Portfolio Chair and shall assume the full responsibilities and the spokesperson role of the Chair. The Deputy Chair shall also work closely with the Chair in ensuring that the following objectives are achieved.~~

~~Establishment of the policy and strategic direction of the City requires Councillors and management to work together to deliver best possible outcomes for the community. To facilitate this process, Council will allocate to Councillors areas of portfolio responsibility. As Portfolio Leads, Councillors will fulfil leadership roles in decision-making, community engagement and city representation areas outlined below.~~

3.4.2. Committee Business

As a Portfolio **Chair Lead**, the Councillor shall:

- ~~provide~~ assist the Lord Mayor and Deputy Lord Mayor, as Chair and Deputy Chair, in the efficient conduct of business undertaken in public and closed sessions of the Future Melbourne Committee meetings. ~~in accordance with the Meeting Procedures Code~~
- represent the decisions and views of the Committee on matters which relate to the Committee's responsibilities in line with media protocols outlined in section 5.1
- undertake a role in relation to emerging issues, challenges and opportunities relevant to the portfolio area. This may involve liaison and consultation with key stakeholders on areas that impact on the development and review of Council priorities and programs
- lead discussion on areas within portfolio responsibilities and assist other Councillors in developing the fullest possible understanding of matters being put to the Council. This includes keeping other Councillors updated through avenues such as Councillor Forum and Councillor-Only Session.

3.4.3. City Representation as Portfolio ~~Chair~~ Lead

In line with protocols outlined in section 5 that acknowledge the role of the Lord Mayor and Deputy Lord Mayor, a Portfolio ~~Chair~~ Lead will also play a key role in representing the City of Melbourne.

A Portfolio ~~Chair~~ Lead has an integral role in communicating an agreed Council position and sharing of information and insight leading to that position.

If a Portfolio ~~Chair~~ Lead has a personal view which differs from an agreed Council position, he/she will ensure that clarity between the two is provided when making comment.

When commenting or engaging on matters of upcoming, but yet to be determined, Council business, a Portfolio ~~Chair~~ Lead will play a facilitation role by providing information about the process and encouraging input without prejudging an outcome.

- **Community Leadership and Engagement:** Leadership in liaison and consultation is an important part of a Portfolio ~~Chair~~ Lead role. As such, a Portfolio ~~Chair~~ Lead shall:
 - act as a focus for liaison between the Council, community and external organisations on significant issues relating to the portfolio area. The ~~Chair~~ Portfolio Lead shall take the lead on such issues raised with Councillors and where necessary shall ensure fellow Councillors and Council officers are informed and consulted in efforts to provide positive outcomes for the community and the city in general and be given the opportunity of playing a lead role in community engagement activities that fall within portfolio areas of responsibility. These activities will facilitate the development of, and communication to, the community of Council policies, strategies and programs
 - be given the opportunity of participating (with the Lord Mayor and Chief Executive Officer) in meetings between Council and Ministers at State and Federal levels of government on major policy issues or decisions
 - be engaged by Council officers when significant meetings including stakeholders are planned in order to better judge whether Councillor involvement is desirable.
- **Media Spokesperson Roles:** A Portfolio Lead will be the authorised spokesperson when the Lord Mayor is not the spokesperson, in line with the media protocols outlined in section 5.1.
- **Events, Functions and Delegations:** A Portfolio ~~Chair~~ Lead will, in line with representation protocol outlined in section 5.4, be given the opportunity of representing Council at a range of cultural, community, business and sporting events in Melbourne. These will involve those organised or ~~sponsored~~ supported by the City of Melbourne and those being staged by external sources. Many of these will involve speaking opportunities. A Portfolio ~~Chair~~ Lead may also be required to represent Council at forums, meetings or conferences at a national and international level on key issues relating to portfolio responsibilities. Such representation will be in accordance with travel guidelines contained in the ~~Councillor Expenses and Resources Guidelines~~ Council Expenses Policy.
- **Advisory Committees and External Organisations:** The Councillor representing Council on an advisory committee or external organisation will normally be the relevant Portfolio Lead.

4. Informed decision making

4.1. Briefings to Councillors

4.1.1. Provision of information and advice by management

Information is made available on a daily basis that will assist the representation and decision-making roles of Councillors. To obtain information that is up-to-date and offered in the right context, liaison should occur with

the Chief Executive Officer or a member of the Management Leadership Team (MLT). Speaking directly to Council officers below MLT level without the authorisation of the appropriate MLT member may result in Councillors receiving advice that has not been formally endorsed by management. ~~Exceptions are made for Councillor Liaison staff and other designated media and planning staff that have been nominated by their Director who for operational reasons require direct contact with Councillors. such as the Manager Media Relations and media advisers or planning officers who, for operational reasons, will have regular contact with Councillors.~~

The provision of information and advice to Councillors operates on the principle that information provided to one Councillor should generally be made available to all Councillors.

As referred to in ~~section 2.4.8 of~~ the Councillor Code of Conduct, the *Local Government Act 1989-2020* provides that individual Councillors cannot direct or attempt to influence Council officers in the performance of their duties. Councillors as a group make decisions and this is done through a resolution adopted at a special Committee or Council meeting.

Councillors should refrain from publicly criticising Council officers in a way that casts aspersions on their professional competence or credibility. Councillors should advise the Chief Executive Officer in a timely fashion of any concerns that a Council officer has acted contrary to a formal Council policy or decision.

In addition to statutory provisions regarding confidential information, Councillors must not release to an external person or organisation any documents or information that the Chief Executive Officer or member of the MLT has formally requested be kept confidential or that has been marked confidential.

4.1.2 Councillor Forum

The Chief Executive Officer and relevant members of the administration will provide a regular Councillor Forum to impart information and allow for discussion. Matters for consideration will usually include briefings on the more significant matters due to come before a meeting of Council or a Committee, briefings on significant matters by external parties, and briefings on the progress of significant Council projects, finances, strategies and plans. The Chief Executive Officer will set the agenda for the Councillor Forum, but will consider suggestions from the Lord Mayor, Deputy Lord Mayor and Councillors. Regular Councillor Forums will be timed as consistently as possible, in expectation that Councillors will endeavour to attend all such meetings unless there is a reasonable reason why they cannot do so, noting however that attendance is not a statutory requirement.

4.1.3. Leadership Team Briefings

In recognition of the leadership roles of the Chief Executive Officer, the Lord Mayor and the Deputy Lord Mayor, regular meetings will be held. These meetings shall provide the opportunity of raising emerging issues (including stakeholder issues), that have the potential to impact on Council position or policy. Discussion shall seek to identify the most appropriate strategy or way forward in progressing such matters. The Chief Executive Officer shall provide advice in relation to progressing matters within budgeted resources. This includes advice in respect of any operational issues raised by the Lord Mayor and Deputy Lord Mayor.

4.1.4. Individual Councillor Briefings

Separately to portfolio briefings (see section 4.3), the Chief Executive Officer will also offer regular meetings with individual Councillors to determine whether Council priorities are being met and to consider matters raised by the Councillor.

4.1.5. Briefing Papers

In addition to the face-to-face briefings above, Briefing Papers from the Executive Leadership Team will be circulated to all Councillors as appropriate.

Any time an Annual Plan **Action** Initiative is proposed to be noted as being complete, Councillors will be informed with a Briefing Paper.

4.2. Preparation of Committee and Council reports

4.2.1. Reports from management

The management will provide professional advice and recommendations to Councillors in the form of reports to Committee and Council. The administration will maintain a forward plan of proposed Committee and Council business and this shall be available to all Councillors, including by monthly briefing paper setting out the draft list of items to be considered at the next three months' agendas for Council and Committee meetings, noting that these lists are always subject to change. A Portfolio **Chair Lead** will be kept informed of upcoming issues through regular Portfolio Group meetings.

The preparation and submission of such reports shall generally be based on the following:

- **Public interest:** The proposal raises an issue of significant public interest.
- **Policy change:** The proposal raises an issue of policy or process not covered by existing policy or practice.
- **Public objection:** The proposal has given rise to substantial public objection or appears likely to do so.
- **Consistency:** The Chief Executive Officer or delegate recommends approval of the proposal, but such approval would be, or could reasonably appear to be, inconsistent with a previous decision or decisions by or on behalf of the Council.
- **Unbudgeted expenditure:** Implementation of the proposal would require expenditure of Council funds, and such funds have not been specifically provided for in the budget.
- **Consultation:** The Chief Executive Officer or delegate is not satisfied that the proposal has been the subject of appropriate consultation with those likely to be interested in or affected by it.
- **Decision by Council:** The Chief Executive Officer or delegate:
 - is not satisfied that the proposal is one that is appropriate for the decision of the administration rather than the Council
 - believes that it is more appropriate that the proposal or any issue arising in connection with it should be determined by the Council rather than the administration.
- **Call-in of proposal:** Any Councillor has indicated a desire to call in the proposal for Council decision.

4.2.2. Councillor requests for report preparation

Individual Councillors seeking the preparation of a report to Committee or Council should convey the request to the Chief Executive Officer. The Chief Executive Officer will assess the request and if fulfilling such a request requires use of significant resources, proposes substantial unplanned work or has a budget impact, a briefing paper shall be prepared for consideration by Councillors. The Chief Executive Officer will only proceed with preparation of a report following advice that a consensus view was reached at Councillor-Only Session on the need for a report.

4.3 Support for Portfolio Chair Lead

Management shall establish operational processes to support the role of Portfolio Chair Lead and Deputy Chair Lead in the decision-making and city representation functions of Council.

A key component of arrangements shall involve establishment of Portfolio Groups to foster information exchange and advice on emerging decisions, issues and opportunities relating to the portfolio. The functioning of Portfolio Groups shall be guided by the following principles:

- Each Portfolio shall have a designated Portfolio Co-ordinator/s Sponsor who is a member of Council's MLT and nominated by the Chief Executive Officer.
- Regular meetings shall be established and the frequency shall be flexible and guided by portfolio activity and operational requirements.
- Some Portfolio Groups may hold regular concurrent meetings in the interests of efficiency.
- Portfolio Groups shall comprise the Portfolio Chair Lead and Deputy Chair Lead, Portfolio Co-ordinator/s Sponsor/s and relevant members of the MLT and other Council officers as required to assist with areas covered by a portfolio.
- ~~Meetings of Portfolio Groups shall be chaired by the Portfolio Chair Lead or Deputy Chair Lead in the absence of the Chair.~~
- A Portfolio Co-ordinator Sponsor shall provide advice and guidance and conduct meetings to deliver a One-CoM approach-integrated and relevant advice by ensuring all areas of the organisation relevant to the portfolio are actively engaged in briefing a Portfolio Chair Lead/Deputy and outcomes are clearly captured and communicated. It is important to note that sometimes it is necessary, on difficult policy issues, to be aware of policy options that are not being pursued and why. The Portfolio Chair Lead and Deputy will be informed when this occurs.
- Information to be shared and reviewed with a Portfolio Chair Lead/Deputy shall include:
 - **Annual Plan actions Initiatives** Progress on delivery of agreed commitments and opportunity to share/feed ideas as the new Annual Plan cycles approaches, including any associated media or stakeholder engagement.
 - **Upcoming Council business:** Advice-Briefings on impending reports decisions for meetings of Future Melbourne Committee and Council, including any associated media or stakeholder engagement. , ~~Briefing Papers and items proposed for presentation at Councillor Forum.~~
 - **Media, communication and engagement:** Details of planned or anticipated media activity, proposed community or stakeholder consultation or engagement by Council and opportunities for representation roles in areas of portfolio responsibility.
- MLT offer a Portfolio Chair Lead an administrative sounding board on matters raised by community and stakeholder groups on issues relating to the portfolio. This will be offered through Portfolio Group meetings or directly with the relevant member of the MLT depending on timing.
- Portfolio Chairs Leads and Deputy Chairs Leads offer an important avenue to achieving a broader understanding and consensus by all Councillors on matters (relating to the relevant portfolio) scheduled to be presented to Committee or Council.
- ~~When informing a Portfolio Chair Lead/Deputy Chair Lead of items to be considered by Committee or Council, opportunities will be provided to ensure a greater level of engagement in the process. This can occur through one or more of the following for the purpose of seeking feedback or information sharing~~
 - ~~advance briefings~~
 - ~~access to summary material~~
 - ~~provision of draft documents.~~

- ~~• This should be offered at various stages of development of a document including
 - ~~○ concept stage~~
 - ~~○ progress draft~~
 - final draft.~~
- The stage of engagement of Portfolio Leads in matters to be presented to Committee and Council will be guided by ELT deliberations on specific matters or at the discretion of the relevant respective General Manager/Portfolio Sponsor.
- Opportunities for feedback from Councillors are appropriate on matters such as development of a policy, strategy, plan or submission. When matters of a statutory or operational nature arise, verbal briefings for the purpose of information sharing ~~are considered~~ may be appropriate.
- ~~• The Chief Executive Officer will provide the Leadership Team with advance information and access to draft documents as deemed appropriate. On some occasions, the advance notification may also involve sharing information with other Councillors.~~
- ~~• All information and draft material provided through the arrangement to Councillors is deemed by the Chief Executive Officer to be confidential information and should be treated as such by Councillors.~~
- Councillors must recognise the role of all Council officers in providing integrated professional, objective and impartial advice and analysis and the role of the Chief Executive Officer in ensuring that all advice to Council meets this criteria. Should Councillors wish to explore avenues to seek an alternative resolution by Committee or Council, advice on governance and procedural processes will be made available.
- To support the principle of information provided to one being generally available on the Councillor portal to all Councillors, action notes of Portfolio Group meetings will be circulated to all Councillors. Councillors may seek additional information through the Portfolio **Chair Lead** or management in an area of interest. ~~To support the One CoM approach, a~~ Action notes will also be made available to Council's MLT to foster greater cross-organisational cooperation and awareness.

4.4 Dealing with confidential information

In the course of conducting Council business, information of a confidential nature may be brought to the attention of Councillors or management. There will be occasions, where due to factors such as timing and sensitivity of a matter, the information may not be able to be shared more broadly by Councillors or management.

Councillors and management will work within the statutory requirements and provisions guiding access to confidential information as part of the decision-making process. These are referenced in the Councillor Code of Conduct and elsewhere in the Councillor Protocol.

5. City representation

Opportunities for the Lord Mayor, Deputy Lord Mayor and Councillors to represent the City will arise through a range of mechanisms including media activity, event attendance and contribution to internal and external publications.

The following protocol outlines the processes by which opportunities will be progressed and allocated. ~~As a general rule, when making an allocation, the key message or subject matter associated with an opportunity will dictate which portfolio it falls within.~~

~~Where appropriate, the Media team should provide initial advice on determination of the key message or subject matter interest (taking into account key stakeholder and external audience interest) associated with an opportunity.~~

Where there is potential portfolio overlap when dealing with media or other representation roles, ~~an opportunity will be referred to relevant Portfolio Chairs Leads for a decision.~~ Councillors are encouraged to reach an agreement on the designated representative. Where an agreement cannot be reached by Councillors in accordance with this protocol, the matter will be referred to the ~~Chief Executive Officer or delegate~~ Lord Mayor for determination.

5.1. Media

5.1.1. General principles

The Lord Mayor, Deputy Lord Mayor and Councillors play an important role in representing our organisation and our community. The *Lord Mayor* is the principal spokesperson for the Council in accordance with Section 18 of the *Local Government Act 2020*.

The following protocol acknowledges that the Lord Mayor is the principal spokesperson for the Council but also recognises the important role of Portfolio Leads in communicating Council policy on matters relevant to the Melbourne community. The aim of this protocol is to share individual media opportunities between the Lord Mayor and the relevant portfolio lead wherever practicable.

This protocol acknowledges that the resources of the Media Team will be made available to assist the Lord Mayor, Deputy Lord Mayor, Councillors and Chief Executive Officer (or delegate) to communicate with media outlets on matters of Council policy.

~~The protocol relies on the principle that the Lord Mayor will always be the preferred spokesperson on 'major issues' involving the City of Melbourne. Whilst this at times will rely on the professional judgement of the Media Team, 'major issues' will generally meet one or a number of the following criteria:~~

- ~~• announcements or commentary relating to major events, major projects or key community infrastructure being undertaken by the City of Melbourne~~
- ~~• key announcements regarding Annual Plan and Budget, Council Plan and other key strategic plans setting the long term vision for the City~~
- ~~• matters, including those considered by Committee or Council, which are likely to involve dialogue at a national or international level~~
- ~~• matters of a highly controversial nature and likely to impact on Council reputation~~
- ~~• matters involving an emergency or crisis~~
- ~~• where the community would reasonably expect to hear from the chief spokesperson or leader of an organisation on an issue.~~

Councillors who have played a key role in development of a Council position and would like to be engaged with media should advise the Lord Mayor and the relevant Portfolio Lead, ~~member of the MLT and the Media Team.~~ This will ensure that the Councillor is kept informed when advancing media opportunities.

A Councillor acting as an authorised spokesperson in line with the following protocol has a responsibility to represent the Council position in relation to a matter. If that Councillor wishes to express a personal view which differs from an adopted position, the Councillor is obliged to identify that the opinion or view is their own.

5.1.2. Determination of the Council spokesperson on any matter

The Lord Mayor is the principal spokesperson for the Council in accordance with the Act, ~~and so will always be the preferred spokesperson on 'major issues' as set out in section 5.1.1.~~ The Lord Mayor may delegate this role to the Deputy Lord Mayor where appropriate.

~~For matters other than 'major issues' as set out in section 5.1.1, the spokesperson for any particular matter will be the relevant Portfolio Chair Lead, or if the Portfolio Chair Lead is not available, the Deputy Portfolio Chair Lead, in accordance with the agreed matters that fall within the relevant portfolio. If neither the Portfolio Chair nor Deputy Chair Lead is available, the Lord Mayor will provide guidance on who the appropriate spokesperson should be.~~

Portfolio Leads are secondary spokespersons for the Council in relation to matters within their respective portfolios only. Respective spokesperson roles will be managed and agreed on a case by case basis between the Lord Mayor and Portfolio Lead. This does not override the Lord Mayor's role as principal spokesperson.

The Chief Executive Officer is the spokesperson for any internal organisational matter.

5.1.3. Media Team support

The Media Team will support the spokesperson in undertaking their role and in generating and responding to media.

A member of the Media Team will generally accompany Lord Mayor, Deputy Lord Mayor and Councillors, if required, to media opportunities or events where a media spokesperson role is likely.

~~Whenever there is proactive or reactive media activity in relation to a 'major issue', the Media Team will endeavour to make all Councillors generally aware of the activity and, if relevant, the proposed approach to same.~~

~~Whenever there is proactive or reactive media activity in relation to an issue other than a 'major issue', the Media Team will endeavour to ensure that the Lord Mayor, relevant portfolio holder and relevant deputy portfolio holder, whichever two of these three are not the spokesperson, are generally aware of the activity and, if relevant, the proposed approach to same.~~

If any matter within this section relates to a motion that has or will be moved by a Councillor in the General Business section of a Council or Special Committee meeting, the Media Team ~~or a member of the MLT~~ will make the relevant Councillor generally aware of any activity and, if relevant, the proposed approach. ~~to same.~~

While Councillors are entitled to speak to the media on any topic, if they are not acting as the authorised spokesperson on Council matters or positions as described in this protocol, the Media Team's resources and assistance are not available to them.

5.1.4. Media releases and media events

Wherever the City of Melbourne publishes a media release or a prepared statement to one or more journalists or media organisations, the statement will, except where it is inappropriate to provide any quote, include a quotes by the Lord Mayor as spokesperson in accordance with section 5.1.2 and relevant Portfolio Lead. ~~and, at the discretion of the Lord Mayor if the statement relates to a 'major issue', an additional quote or quotes by the portfolio holder above and beyond those provided by the Lord Mayor. However, only one spokesperson may be used under specific circumstances such as tight time deadlines for a particular response.~~ For proactive media events, the Portfolio Lead will also be invited to play a supporting role with the Lord Mayor.

All Councillors will receive copies of all media releases upon publication to the Councillor portal and City of Melbourne's website.

5.1.5. Obligations on Councillors in relation to media contact

The Lord Mayor, Deputy Lord Mayor and Councillors will ~~endeavour~~ when providing public comment in any media (other than self-published media on social media platforms), whether initiating contact with or responding to a journalist or media organisation, and whether or not the Councillor is a spokesperson on the matter in question, ~~should alert the Director, Strategic Communications or nominated staff member. a Council Media Adviser without delay~~ of the time and topic of the comment, and the organisation that the comment was provided to. ~~If the comment is made in the presence of a Media Adviser or is made in accordance with a plan that a Media Adviser is aware of, the Media Adviser is deemed to have been alerted.~~

If the Lord Mayor, Deputy Lord Mayor or a Councillor providing comment to a journalist is not the spokesperson for the matter at hand, they will inform the journalist of the identity of the spokesperson. ~~If a Councillor provides comment, they will alert the relevant portfolio holder as soon as possible.~~

If the Lord Mayor, Deputy Lord Mayor or a Councillor provides comment to a journalist that could be deemed to be divisive, or against ~~an agreed Council position~~, they will alert all Councillors of the nature of the comment as soon as possible.

5.1.6. Social media

The City of Melbourne uses social media to engage with the wider community. The administration operates various social media accounts in accordance with the City of Melbourne Social Media Policy.

As the Council's ~~principal~~ chief-spokesperson and representative, appropriate social media accounts using the title of Lord Mayor will be maintained by the administration. The accounts will be utilised as part of the City of Melbourne's broader communication and engagement through social media.

As part of a broader approach to enhancing community and public engagement in Council decision-making processes, the Media team will, where appropriate, publicise impending Committee and Council business through traditional and social media. They will also publicise outcomes on matters which may benefit from increased community awareness and debate.

5.2. Corporate communications

The City of Melbourne will use a range of digital and print communication methods to reach, inform and engage the community and will strive to do this in a sustainable and cost effective manner.

The methods and platforms used will vary and evolve over time to allow Council to respond and adapt to current and emerging trends in the way the community prefers to receive information about activity within the municipality.

~~In doing so, management will recognise the city representation role of Councillors and shall reflect this role and seek input from Councillors where appropriate to the activity and platform being used.~~

~~The approach taken shall be guided by the following principles:~~

- ~~• The chief representative role of the Lord Mayor.~~
- ~~• The role of Portfolio Chairs Leads particularly in relation to community engagement and other consultative activities associated with a portfolio.~~
- ~~• There may be occasions where a contribution from more than one Councillor is considered appropriate. In these circumstances, input from the Lord Mayor and Portfolio Chair Lead will be preferred.~~
- ~~• Strategies and Plans, and similar such policy statements designed for publication, endorsed by the Future Melbourne Committee or Council, will carry a foreword jointly attributed to the Lord Mayor and relevant Portfolio Chair Lead.~~

- ~~• The level and type of visual content associated with Councillors will be appropriate to the activity and format used.~~
- ~~• Management has editorial responsibility for final content to be shared through corporate publication and communication channels.~~

5.3. External publications

Opportunities to contribute to publications produced by external sources shall be referred to the Lord Mayor, Deputy Lord Mayor or Councillors as appropriate to their Portfolio **Chair Lead** role or that of the Lord Mayor as chief **principal** spokesperson. Appropriate support will be provided where the subject matter has a strong alignment with Council goals, policies and objectives.

5.4. Representing the city at events, functions and delegations

5.4.1. Nationally and Internationally

As a Capital City, Council plays an important role in issues at a local, national and international level. In representing the Council, Councillors and the administration will be required to travel with the aim of strengthening domestic and international relationships and arrangements. Travel undertaken by Councillors and the administration will be in accordance with guidelines that provide for authorisation processes, reporting and recording of related expenses. The protocols covering travel by Councillors are outlined in the **Councillor Expenses and Resources Guidelines-Council Expenses Policy**.

5.4.2. Local Representation - Functions, Events and Delegations

5.4.2.1. Opportunities generated through Council organised and **sponsored supported** events

As chief representative and spokesperson for Council, the Lord Mayor is given first opportunity to represent Council at functions and events organised or **sponsored supported** by the City of Melbourne, ~~with the exception of portfolio-specific consultations, forums and community meetings, for which the relevant Portfolio Chair is given first opportunity to represent Council.~~

For functions and events where the Lord Mayor is given first opportunity to represent Council, if the Lord Mayor is unavailable, the invitation is first forwarded to the Deputy Lord Mayor, then the relevant Portfolio **Lead Chair** if the Deputy Lord Mayor is also unavailable, then the relevant Deputy **Portfolio Chair Lead** if the **Chair Lead** is also unavailable. To ensure that the portfolio holder is kept informed, the relevant Portfolio **Chair Lead** shall, for information purposes, receive notification of opportunities referred to the Lord Mayor for consideration.

For functions and events where the relevant Portfolio **Chair Lead** is given first opportunity to represent Council, if the Portfolio **Chair Lead** is unavailable, the invitation is first forwarded to the Deputy **Portfolio Chair Lead**. Where a Councillor has played a key role in development of a Council organised or **sponsored supported** event and would like the opportunity to represent the City at that event, the Councillor should advise the Councillor/s otherwise entitled to be the representative, and either request that the speaking opportunity be passed on, or that arrangements otherwise be made to include the Councillor in the formal proceedings of the event.

Opportunities for representation by Councillors, the Chief Executive Officer and **Directors General Managers** will be communicated through a Corporate Calendar system which provides full details of opportunities and background information to maximize benefits from Council involvement.

Speechwriting support is not provided for Councillors who wish to speak at functions outside of their official role as a City of Melbourne representative.

For the purposes of the protocol, **supported sponsorship** refers to City of Melbourne funding or in-kind ~~contribution-support~~ towards the staging of an event or function. This does include funding provided through the purchase of tickets or seating at events and functions once the event has been announced and promoted.

5.4.2.2. Opportunities received directly by Councillors and the administration from external sources

Invitations received by the Lord Mayor

As the chief representative of Council, the Lord Mayor will be approached by city stakeholders to participate in events, functions and activities important and relevant to Melbourne. If the Lord Mayor is unavailable and the opportunity is transferable, the opportunity will be referred to the Deputy Lord Mayor in the first instance. If unavailable, the **Lord Mayor will refer to another Councillor and may take into account Portfolio Lead roles opportunity will be offered to the appropriate Portfolio Chair, Deputy Portfolio Chair or other Councillor taking into consideration**, positions on advisory committees and external organisations, areas of expertise and interest expressed by Councillors.

Invitations received by the Deputy Lord Mayor and Councillors

The Deputy Lord Mayor and Councillors will receive invitations in an individual capacity to represent Council. These may be received in acknowledgement of portfolio responsibilities or in response to established relationships with city stakeholders. Councillors will consider and respond to such invitations in an individual capacity. If the opportunity is transferable, Councillors should consider referring the invitation to the relevant Portfolio ~~Chair~~ **Lead**.

Invitations received by the administration

Where an external source approaches the administration with a view to seeking representation by a Councillor, the administration first refers the approach to the Lord Mayor for consideration. If the Lord Mayor declines the invitation and an alternative Councillor is considered acceptable to the organising body, the request is forwarded to the Deputy Lord Mayor and then to the relevant Portfolio ~~Chair~~ **Lead**.

5.4.2.3 Support for Councillor Representation

In representing Council at events, functions and delegations, Councillors may require support in the form of speech notes, presentations and background information. This support shall be arranged through the Corporate Calendar system or through other agreed processes and support networks. When requesting a speech for an event which is not Council owned or ~~sponsored supported~~, the request must identify a strong alignment with Council goals, policies and objectives or seek to advance the City of Melbourne's leadership role within the community.

5.4.3. Representation at ~~Access to ticket for~~ Council organised or ~~sponsored supported~~ events

~~Councillors will have the opportunity to represent Council and host stakeholders and associates at cultural, community, business and sporting events in Melbourne. These include those events organised or supported by Council. Where limited opportunities for participation are available, priority access will be given to the Lord Mayor, Deputy Lord Mayor and Portfolio Leads.~~

~~As the organiser or sponsor of many key cultural, community, business and sporting events in Melbourne, there will be ticket opportunities for Councillors, the administration and stakeholders. It is important to have a transparent and accountable system of allocation of tickets. The process supporting allocation allows Council to use tickets in a strategic way to maximize the profile and relationship opportunities for the City of Melbourne and shall be guided by the following principles:~~

- ~~• The need to ensure Council is appropriately represented at all sponsored supported and organised events.~~

- ~~That City representation involves participation of Councillors and the senior members of the administration.~~
- ~~That where limited tickets are available in the proposed allocation to Councillors, priority shall be given to the Lord Mayor, Deputy Lord Mayor and relevant Portfolio Chair Lead.~~
- ~~Ticketing should be used for the primary purpose of further developing and enhancing Council relationships with stakeholders. In certain circumstances, participation by associates (including family members) of Councillors may be considered appropriate.~~
- ~~For the purposes of stakeholder relations and continuous improvement in the delivery of events, Council officer representation may also occur.~~
- ~~Allocated tickets should be used. Unused tickets represent a loss in profile and stakeholder relationship opportunities.~~

Councillors should be aware that Fringe Benefits Tax and Reportable Fringe Benefits Tax provisions apply in respect of access to events ~~use of tickets~~ provided by Council. Councillors should refer to the ~~Councillor Expenses and Resources Guidelines~~ **Council Expenses Policy** for further guidance on these provisions.

5.4.4. Requests for Council support or funding for events

Councillors approached for Council support or funding for events and activities must first raise the matter with management for consideration in accordance with Council policy and guidelines under specific programs and projects. The guidelines ensure that assessment processes are fair, transparent and accountable.