

Murrindindi Shire Council Policy

Councillor Code of Governance



POLICY COVER SHEET

Councillor Code of Conduct

Type:	Council
Adopted:	25 September 2013
Last Review Date:	April 2016
Approved By:	Council
Next Review Date:	Within 4 months of the 2016 Local Government General Election
Responsible Officer:	Coordinator Governance
Department:	Governance
File No:	16/15095
Attachments:	Councillor Code of Conduct April 2016

Step	Approved By	Date of Approval / Completion
Reviewed relevant legislation	Responsible Officer	1 April 2016
Consultation with relevant officers / departments	Responsible Officer	1 April 2016
Draft completed	Responsible Officer	1 April 2016
Draft reviewed by Coordinator Governance	Coordinator Governance	1 April 2016
Draft approved by Department Manager	Department Manager	1 April 2016
Draft circulated to staff via Murri for feedback	Responsible Officer	N/A
Changes made	Responsible Officer	N/A
Draft to EMT Policy Meeting	General Manager	N/A
Changes made	Responsible Officer	N/A
EMT approval	CEO	1 April 2016
Briefing Note approved (if applicable)	General Manager	1 April 2016
Agenda Item approved (if applicable)	General Manager	15 April 2016
Council adoption (if applicable)	Council	27 April 2016 (TBC)

Conflicts of Interest

Nil

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Title:	Councillor Code of Conduct
Type:	Council
Adopted:	25 September 2013 – reviewed 27 April 2016
File No:	SF/137
Attachments:	Councillor Code of Conduct April 2016

1. Purpose

Murrindindi Shire Council is constituted under the Local Government Act 1989 (“the Act”) and the Council is accountable to the residents of this municipality and to the Victorian Government. All Councils are required to ‘develop and approve a Code of Conduct for the Council’ in accordance with the Act.

2. Rationale

The community expects local government to provide fair, accurate and unbiased advice, to act promptly and effectively and to manage assets efficiently. To assist in meeting these expectations, section 76C of the Act requires Councils to adopt a Code of Conduct to be observed by Councillors and delegates of the Council.

As a result, the Murrindindi Shire Council has two Codes of Conduct – one for Councillors and one for staff and representatives of Council. The two codes clearly distinguish the expectations of Councillors as elected representatives, from those of staff who are employed by the Council. The principles are the same, but the wording differs to reflect the distinctions that exist and the requirements of the Act.

This Code clearly outlines the responsibilities and behaviours that are to be observed in keeping good faith and the trust of fellow councillors, staff and the public. It is important that all Councillors understand and comply with the Code forming part of this Policy.

3. Scope

The primary purpose of Council is to provide service to the community and the individuals within that community.

The principal policy relating to Council’s service role provides that:

- the Council is a service organisation for the residents and businesses of its area;
- the Council exists to assist each individual residing in its area, consistent with the common good and its legal responsibilities; and
- the Council plays a leadership role in developing policy and strategy for the benefit of the organisation and community.

This Code of Conduct applies to all Councillors of Murrindindi Shire Council.

4. Definitions

All definitions are referenced in the *Local Government Act 1989*

5. Policy

Refer to the attached Councillor Code of Conduct April 2016

6. Related Policies, Strategies and Legislation

Local Government Act 1989

Local Government and Planning Legislation Amendment Bill 2010

Good Governance Guide 2012

Privacy and Data Protection Act 2014

Health Records Act 2011

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Murrindindi Shire Council Policies:

Confidentiality and Privacy Policy
Councillor Portfolio Policy
Councillor Reimbursement Policy
Election Caretaker Policy
Employee Conduct Policy
Information Privacy Policy
Prevention of Bullying and Occupational Violence Policy
Protected Disclosure Policy
Risk and Safety Policy
Communications Policy
Conflict of Interest Policy

7. Council Plan

The review of the Code of Governance is consistent with the objectives of the Council Plan 2013-2017 which include under the Our Council goal the objective that 'We will deliver quality customer outcomes by continuing to find better ways of doing things.'

8. Management and Review

It is the responsibility of all Councillors to ensure that this policy and the Councillor Code of Conduct are implemented. The Policy and the Code of Conduct will be monitored by the Mayor and Chief Executive Officer.

A review of this policy is required to be undertaken within 4 months of a General Election of Council.

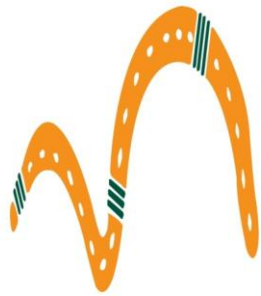
9. Consultation

No external consultation was required in the review of this policy.

10. Human Rights Charter

This policy has been developed with consideration of the requirements under the Charter of Human Rights and Responsibilities.

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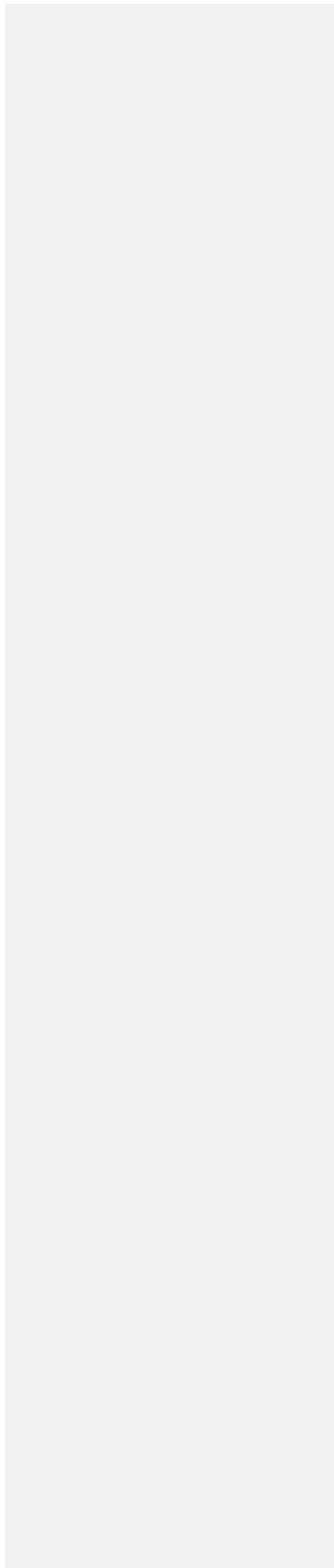
Murrindindi

Shire Council

Councillor Code of Conduct

A Guide to conduct for Murrindindi Shire Councillors

April 2016



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INTRODUCTION

Murrindindi Shire Council is constituted under the Local Government Act 1989 (the Act) and the Council is accountable to the residents of this municipality and the Victorian Government.

The community expects local government to provide fair, accurate and unbiased advice, to act promptly and effectively and to manage assets efficiently. To assist in meeting these expectations, section 76C of the Act requires Councils to adopt a Code of Conduct to be observed by Councillors and delegates of the Council.

As a result, Murrindindi Shire Council has two codes of conduct – one for Councillors and one for staff of Council. The two codes clearly distinguish the expectations of Councillors as elected representatives, from those of staff who are employed by the Council. The principles are the same, but the wording differs to reflect the distinctions that exist and the requirements of the Act.

This code clearly outlines the responsibilities and behaviours that are to be observed in keeping good faith and the trust of fellow councillors, staff and the public. It is important that all Councillors understand and comply with the code forming part of this policy.

COUNCIL AS A SERVICE ORGANISATION

The primary purpose of Council is to provide service to the community and the individuals within that community.

The principal policy relating to Council's service role provides that:

- the Council is a service organisation for the residents and businesses of its area;
- the Council exists to assist each individual residing in its area, consistent with the common good and its legal responsibilities; and
- the Council plays a leadership role in developing policy and strategy for the benefit of the organisation and community.

DECISION MAKING PROCESSES

Murrindindi Shire Council is committed to transparent decision making. Good decision making requires good information; the key to good information is following procedures that are put in place. Transparency in the decision making process means that it is not only the decision makers but also the observers have a clear understanding of what has occurred.

The key stages in the decision making process are as follows:

- Setting the Agenda
- Information Gathering
- Forming an Opinion
- Making the Decision
- Implementing the Decision

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Governance Local Law 2

The Governance Local Law 2 outlines the meeting procedures of Council and the use of the common seal. Councillors whilst participating in a meeting of Council must adhere to the requirements of the Governance Local Law 2.

Respect for other Councillors' views

Informed decision making and ultimately good governance are derived from healthy debate through the exchange of views by Councillors in the Council Chamber.

Whilst Councillors will sometimes disagree with the views of their colleagues, good decision making will be enhanced if those views can be heard and considered.

All Councillors are given an opportunity to respond to the views of others. Such response should be in a well spirited and responsible manner so as to promote good debate and should ultimately lead to good decision making.

Respect for Council decision

Council decisions result from a majority of Councillors voting in a particular way. Not all decisions are unanimous and sometimes the chairperson will be required to exercise a casting vote.

Unless subsequently revoked or amended, a decision of Council is legally binding on the organisation.

Without compromising the rights of minority Councillors to maintain opposition to a Council decision, those Councillors must nonetheless accept and respect the decision arrived at by their colleagues via a democratic process in the Council Chamber.

COUNCILLOR CODE OF CONDUCT

This Councillor Code of Conduct was adopted by resolution of the Murrindindi Shire Council on 27 April 2016 in accordance with section 76C of the Local Government Act 1989.

The code of conduct applies to all Councillors and relates to the performance of Council functions and purposes and all the various forms of decision-making processes. It supports all the requirements of the Act.

Operation

A copy of the Code of Conduct is given to all Councillors upon being elected into office and is an integral component of the induction process for new Councillors. This conveys the obligations placed on, and the behaviours expected of Council and each individual Councillor. Any breaches of the code are published in Council's annual report.

Council must review, and make any necessary amendments to the Code of Conduct within 4 months after the commencement of section 15 of the Local Government Amendment (Improved Governance) Act 2015 and then within 4 months of each Council general election.

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The review and subsequent adoption of the Code of Conduct must be undertaken at a Special Meeting of Council called for that purpose.

An electronic version of the Code of Conduct is available on Council's intranet and internet sites. A copy of the code is also available for inspection at each of Council's offices and libraries.

Declaration

Section 76C(6A) requires that within one month of amendments to a Councillor Code of Conduct being approved Councillors must declare in writing, witnessed by the Chief Executive Officer that they will abide by the Councillor Code of Conduct. (Refer Attachment A- "Code of Conduct Declaration Pro Forma")

Preliminary

The wording used in this section of the Code of Conduct is drawn from the Local Government Charter (sections 3B and 3D of the Act.)

Murrindindi Shire Council consists of the Councillors who are democratically elected by the voting members of the Murrindindi community in accordance with the *Local Government Act 1989* (The Act).

The role of the Council is to provide leadership for the good governance of the Shire of Murrindindi. It includes:

- a) acting as a representative government by taking into account the diverse needs of the local community in decision-making;
- b) providing leadership by establishing strategic objectives and monitoring their achievement;
- c) maintaining the viability of the council by ensuring that resources are managed in a responsible and accountable manner;
- d) advocating the interests of the local community to other communities and governments;
- e) acting as a responsible partner in government by taking into account the needs of other communities; and
- f) fostering community cohesion and encouraging active participation in civic life.

CONDUCT OF COUNCILLORS

Primary Principles of Councillor Conduct

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

- a) act with integrity; and
- b) impartially exercise his or her responsibilities in the interests of the local community; and
- c) not improperly seek to confer an advantage or disadvantage on any person.

The "Local Community" is defined under the Act as including:

- a) people who live in the municipal district; and
- b) people and bodies who are ratepayers; and
- c) people and bodies who conduct activities in the municipal district"

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General Councillor Conduct Principles

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

- a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
- d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- f) act lawfully and in accordance with the trust placed in him or her as an elected representative; and
- g) 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.

Legislation and Murrindindi Shire Council

In line with the above legislation Murrindindi Shire Council therefore affirms the following principles of behaviour.

All Councillors will:

- always act with integrity and honesty by:
 - being honest in all dealings with the public, with other Councillors and with council staff;
 - always acting with impartiality and in the best interests of the public;
 - not acting in ways that may damage the Council or its ability to exercise good government;
 - exercising reasonable care and diligence in performing their functions as Councillors; and
 - complying with all relevant laws, be they federal, state, local laws or Council policy;
- not make improper use of their position or of information acquired because of their position to:
 - gain or attempt to gain directly or indirectly an advantage for themselves or for any other person; and
 - cause, or attempt to cause, damage to Council; and
- treat all people with courtesy and respect, recognising there are legitimate differences in opinion, race, culture, religion, language, gender and abilities. This includes:
 - treating members of the community with dignity and seeking that neither offence nor embarrassment is caused;
 - treating fellow councillors with respect, even when disagreeing with their views or decisions;
 - ensuring punctual attendance at Council meetings; and
 - acting with courtesy and respect towards council staff and avoiding intimidating behaviour.

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Promoting Wellbeing in the Workplace

In line with Occupational Health and Safety, Human Rights and Equal Opportunity legislation, Council is committed to protecting the health, safety and well-being of all Councillors and staff and will provide, as far as practicable, a safe Council working environment that is free from bullying and violent behaviour.

Council has a Prevention of Bullying and Occupational Violence and a Risk and Safety Policy in place.

Councillors are expected to promote an environment of well being in the workplace and ensure all people in the workplace, which includes Councillors, staff, visitors, contractors and customers, are treated with respect and report any acts or suspected acts of bullying and violence to the Chief Executive Officer. Councillors themselves will treat all people with courtesy and respect recognising there are legitimate differences in opinions, race, culture, religion, language, gender and abilities.

DEALING WITH COUNCIL PROPERTY

Use of Council Facilities, Funds, Equipment, Staff and Intellectual Property

Councillors will:

- be honest when using council's facilities, funds, employees, materials and equipment and not misuse them nor allow them to be misused, particularly outside of adopted or accepted guidelines or practices;
- ensure that Council resources are used effectively and economically; and
- not use Council resources or utilise Council employees for private use or gain; and
- ensure that claims for out of pocket expenses are accurate and relate strictly to Council business as defined in the Councillor Reimbursement Policy.

Internet and Email

Councillors with access to council-provided Internet services and email addresses are provided access on condition they note and acknowledge the following:

- The Internet service is provided for council business purposes, although limited private use is available to conduct personal matters. Withdrawal of provision of internet service may take place if private access to Internet facilities is considered to be excessive or where it unreasonably interferes with the operation of council facilities.
- Internet users are prohibited from accessing and/or downloading any material which is offensive or likely to be considered offensive, unlawful, or which may expose council to risk or harm, or which breaches Council's agreement with its Internet service provider, or may bring council into disrepute.
- Material may only be downloaded and/or distributed after all anti-virus procedures are first adhered to, including the vetting of attachments to email messages.
- Email users must not distribute any electronic messages received (whether text, images or sound or any combination) which are offensive or likely to be considered offensive, unlawful, or which may expose Council to risk or harm, or which breaches Council's agreement with its Internet service provider, or may bring Council into disrepute.

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- Any email sent from a Councillor to a Council officer (or which includes a Council officer in its distribution) will be registered as part of the Electronic Document Management System by the Council Officer and therefore becomes a Council record and meets the statutory requirements of a Council record.
- Any email message received which contains racist, sexist, obscene or offensive material must be immediately deleted and not distributed, copied or made available to any other person unless required by law.
- Any email message sent outside the organisation must contain the name, business title and contact details of the sender in the appropriate corporate style.
- Users should recognise that email is not a secure method to transmit sensitive information and therefore an alternative option of sending such information should be used.

Mobile Phone

Councillors with a Council-provided mobile phone are only provided access on condition that they note and acknowledge that users are prohibited from using the service to send, access, and/or distribute any material (whether text, images or sound or any combination) which is offensive, unlawful, or reasonably likely to be considered offensive, or which may expose Council to risk or harm, or may bring the Council into disrepute.

Corporate Credit Cards

The Mayor is provided with a Council credit card which is only provided on condition that the card is to be used for business purposes only and in accordance with Council's Corporate Credit Card Policy and the Councillor Reimbursement Policy.

Information and Intellectual Property

Past or present Councillors may not make unauthorised use of council's information or intellectual property.

CORPORATE OBLIGATIONS

Handling and Use of Confidential and Personal Information

Councillors must not:

- use information gained by virtue of being a councillor for any purpose other than to exercise their role as a Councillor;
- disclose or use information deemed "confidential information" in accordance with section 77 of the Act;
- discuss, distribute or allow to be communicated to another party any "confidential" information, where marked as such or which by its content could be reasonably considered to be of a confidential nature; and
- use information to cause harm or damage to any person, body or the Council.

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Councillors who handle personal information, especially information falling within the scope of the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*, must ensure they fully understand the requirements regarding the handling and use of personal information set out under those Acts, associated regulations and Council policies and procedures. "Personal information" includes any information about an identifiable individual.

Councillors must understand that they are subject to Information Privacy Principles both as members of Council and as individual public officials. Councillors must abide by the principles set in Council's Confidentiality and Privacy Policy.

Councillor Identification and Security

Councillors will be given identification tags and security access cards as required. For security purposes, the identification supplied must be worn at all times when carrying out Council activities.

Misuse of Position

In performing the role of a Councillor, a Councillor must comply with section 76D of the Act which states that a person who is, or has been, a Councillor must not misuse his or her position:

- a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
- b) to cause, or attempt to cause, detriment to the Council or another person or organisation.

Circumstances involving the misuse of a position by a person who is, or has been, a Councillor are described in section 76D of the Act and include:

- a) making improper use of information acquired as a result of their position; or
- b) disclosing confidential information within the meaning of section 77(2); or
- c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or
- d) exercising or performing a power, duty of function that they are not authorised to do; or
- e) using public funds or resources in a manner that is improper or unauthorised; or
- f) failing to disclose a conflict of interest as required.

Improper Direction and Improper Influence

In performing the role of a Councillor, a Councillor must comply with section 76E of the Act which states that a Councillor must not direct or seek to direct, a member of Council staff in the exercise of any power or in the performance of any duty or function by the staff member, including advice in a report to the Council or Special Committee.

Relationships with Council Staff

As detailed in Section 94A of the *Local Government Act*, the Chief Executive Officer is responsible for the staff of Council which includes appointing, directing, managing and dismissing staff. Councillors have no right to individually direct staff to carry out particular functions. Councillors will advise the Chief Executive Officer if they have concerns that staff have taken action contrary to a formal policy or decision of Council. Councillors will not involve themselves in any personnel matter relating to staff, except for the Chief Executive Officer.

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The information provided to one Councillor should be equally available to other Councillors and no treatment that is unequal should be sought from any staff member. Councillors must respect the role of Council officers and employees and treat them in a way that engenders mutual respect at all times. Councillors will act with courtesy and respect towards Council staff and avoid intimidating behaviour.

Disclosure of Improper Conduct

Council has adopted a Protected Disclosure Policy in order to encourage and facilitate disclosures of improper conduct or detrimental action.

The Protected Disclosure Policy provides for the receipt and effective management of information relating to a Councillor or a Council officer engaging in improper conduct or detrimental action. It ensure that effective processes are in place to support people who have made protected disclosures, those who may be the subject of a protected disclosure and those who maybe a witness in an investigation.

Conflict of Interest

Council is committed to making all decisions impartially and in the best interests of the public. Council recognises the importance of fully observing the requirements of the Act relating to the disclosure of interests and conflicts of interest. Council also recognises that there may also be potential or perceived direct or indirect conflicts of interest that need to be considered by Councillors.

A Councillor has a conflict of interest in respect of a matter if they have a direct or indirect interest in the matter. Council has a Conflict of Interest Policy in place which outlines the various categories of interests and the procedures for declaring a conflict of interest, Councillors must abide by the requirements of the Policy and the Act.

Assembly of Councillors

An assembly of Councillors means a meeting of an advisory committee of the Council if at least one Councillor is present or a planned or scheduled meeting comprising at least half the Councillors and one member of council staff.

If a Councillor attending an assembly of Councillors knows that a matter being considered by the assembly is a matter that, were the matter to be considered and decided by Council, the Councillor would have to disclose a conflict of interest under section 79 of the Act, the Councillor must disclose to the assembly that he or she has a conflict of interest and leave the assembly while the matter is being considered.

The provisions for requirements to be observed by assemblies of Councillors are provided under 80A of the Act. The Chief Executive Officer will ensure that a written record of assemblies of Councillors is kept in accordance with the Act and reported to the next available Council meeting.

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Gifts and Bribery

Councillors must not seek or accept any immediate or future reward or benefit in return for performance of any duty or work for the Council.

Under the provisions of section 78C of the Act, Councillors can be seen to have an indirect interest if they have received an applicable gift or gifts with a total value of \$500 or more directly or indirectly in the 5 years preceding a decision from –

- a) a person who has a direct interest in the matter; or
- b) a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or
- c) a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.

In addition to disclosing an interest in this instance, any gift, good, service or other item of value worth \$500 or more that is offered by an external person, company or body, whether accepted or returned, must be promptly reported on the appropriate disclosure form to the Chief Executive Officer. This includes token gifts and acts of hospitality.

A record of gifts and other considerations is required for the reporting of fringe benefits tax and is kept by the Chief Executive Officer.

Fraud and Corruption

Murrindindi Shire Council is committed to preventing fraud in the Council workplace and functions under the guidelines of its Fraud Prevention and Control Policy.

All Councillors should take appropriate action to prevent fraud and corruption particularly within their area of responsibility and in line with the abovementioned Policy. Any suspected fraud and/or corruption is to be reported immediately to the Chief Executive Officer.

Council will take steps to protect Councillors who make honest reports. Strong protection is also available through Council's Protected Disclosure Policy.

Public Communications

The Mayor is the official spokesperson on behalf of the Murrindindi Shire Council, and the Chief Executive Officer is the official spokesperson for all operational matters. As a representative of the community, Councillors need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. Councillors will advise the Communications Department prior to any media interactions so that a Council-wide perspective can be obtained and the Mayor may be informed.

The Communications Department is responsible for coordinating, approving and dispatching all Council media releases, photo opportunities and media briefings following authorisation by the Chief Executive Officer.

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On issues where there is a significant and ongoing involvement by a ward or portfolio Councillor, with the agreement of the Mayor, the Communications Department will contact the relevant Councillor to have a statement included in the media release or media enquiry response. With the approval of the Mayor, and where practicable, the Communications Department will contact the relevant Ward Councillor/s to appear in media photographs in relation to issues, programs or services pertaining to the Ward.

Councillors are entitled to present their own views, but in doing so, Councillors should acknowledge that:

- a) as a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council and any expression of views should not compromise their ability to participate in Council decision making processes;
- b) an overriding concern ought to be in achieving a balance in the matters that are communicated and strive to achieve an outcome that presents the Council as effective and cohesive;
- c) information of a confidential nature must not be communicated; and
- d) information concerning adopted policies, procedures and decisions of the Council must be conveyed accurately.

All council communications (publications, media releases, flyers etc) must adhere to approved style guides, graphics, images and templates (including colours and logo) and Council graphics, images and templates may only be used with the approval of the Chief Executive Officer.

When using social media platforms as a representative of Council, Councillors are expected to adhere with Council's Social Media Policy. Councillors are personally responsible for the content they publish in a personal capacity on any form of social media platform and ensure that the views expressed are those of the individual and no reference is made or could be perceived to have been made, to Murrindindi Shire Council, its Councillors, staff, policies, practices or services, suppliers or other stakeholders.

INTERNAL RESOLUTION PROCEDURES AND ENFORCEMENT OF THE CODE OF CONDUCT

In the case of disputes and suspected breaches of the rules of conduct within Council there will be a fair means of internally investigating and determining these as outlined in this Code of Conduct. Any investigation will include the exercise of discretion, impartiality and consideration of the best interests of the Council and the organisation.

Disputes Between Councillors

Councillors should be mindful that having and expressing differing and sometimes opposing viewpoints is a normal function of the process of democratic local government. Sharing and expressing these different views leads to informed and well considered debate. All Councillors have the right to influence the decisions made by Council through this debate. Councillors must act in accordance with the Governance Local Law 2 when engaging in debate in a meeting of Council.

Therefore, having differing views, politics or attitudes from other Councillors is not considered a conflict or a dispute and does not require resolution.

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Conflict and/or disputes emerge when the differences between Councillors become personal or the behaviour of Councillors towards each other and/or staff is of a nature that threatens the effective operation of Council's decision-making processes.

A dispute may arise between two individual Councillors, between one Councillor and a group of Councillors or between two or more different groups of Councillors. In this internal resolution process the Councillor or group of Councillors that is seeking a resolution is referred to as 'the Applicant' and the Councillor or Councillors against whom the application is lodged is entitled 'The Respondent'. The following internal resolution procedure will apply regardless of the dynamics and numbers involved.

Disputes Between Councillors and Staff

The Chief Executive Officer has sole responsibility for the management of Council staff. In the event of a Councillor wishing to lodge a complaint against a member of Council staff, this complaint must be lodged with the Chief Executive Officer. Where the complaint is about the Chief Executive Officer the complaint must be lodged with the Mayor. It will remain the discretion of the Chief Executive Officer or Mayor as to what, if any, action is undertaken as per the Internal Resolution Process.

Where a staff member has a complaint in respect of a Councillor, the complaint must be made to the Chief Executive Officer who will, if deemed appropriate, discuss the matter with the Mayor. Where the Mayor deems a breach of the Councillor Code of Conduct has occurred the Mayor will progress the matter in accordance with this dispute resolution process, acting as the Applicant. Where the complaint involves the Mayor, the Chief Executive Officer will act as the Applicant.

Disputes Between Members of the Public and Councillors

Where a complaint is received from the public in respect of a Councillor, the matter shall be referred to the Mayor for consideration. Where the Mayor determines a breach of the Councillor Code of Conduct has occurred, the Mayor will progress the matter in accordance with this dispute resolution process acting as the Applicant. Where the complaint involves the Mayor, the Chief Executive Officer will act as the Applicant.

Internal Resolution Procedure

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

1. Self-Resolution (Optional)
2. Formal Request for Remedy of Breach
3. External Arbitration
4. Request for Councillor Conduct Panel.

Comment [t1]: Wording changes made match that of the legislation

1. Self Resolution (Optional)

Where a dispute and/ or a breach of the Code of Conduct arises, the ideal outcome would be for the Applicant and Respondent to have informal discussions in the first instance with a view to resolving any issues without further recourse to this internal resolution procedure. This may be undertaken informally or alternatively either party may request a discussion with the Mayor acting as an independent arbiter, should the Mayor not be either the Applicant or Respondent. Where either party believes that this step will not achieve a resolution, this step in the internal resolution process may be by-passed.

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2. Formal Request for Remedy of Breach

The Applicant will provide written details of the alleged breach of the Councillor Code of Conduct and the remedy sought to the Mayor for formal consideration. Where the Mayor believes that a breach of the Councillor Code of Conduct has occurred, the Mayor will formally write to the Respondent requesting actions from the Respondent that remedy the perceived breach and provide a time-frame in which the remedy must be implemented.

In the event that the Mayor is either the Applicant or Respondent, the Chief Executive Officer shall perform the role of the Mayor.

3. External Arbitration

The role of an external arbiter primarily is to:

- a) consider applications alleging a contravention of the Code of Conduct;
- b) make findings in relation to any application alleging a contravention of the Councillor Code of Conduct which the arbiter must give to the Council;
- c) provide processes to ensure that parties affected by an application alleging a contravention of the Councillor Code of Conduct are given an opportunity to be heard by the arbiter.

In the event that the perceived breach of the Councillor Code of Conduct is not remedied within the time- frame established, or where the Respondent does not accept that a breach of the Code has occurred, either the Applicant or Respondent may request that external arbitration be implemented. Such applications are to be lodged in writing with the Chief Executive Officer.

Council will secure an external arbiter who is suitably independent and able to carry out the role fairly. The Applicant and Respondent may both indicate their preferred arbiter however the ultimate decision on the arbiter will rest with the Chief Executive Officer based on the availability of the arbiter and any other circumstances deemed relevant by the Chief Executive Officer.

The arbiter will endeavour to achieve an agreed outcome between the Applicant and the Respondent. Where an agreed outcome is not achieved, the arbiter will be required to provide a written report to the Applicant, Respondent and Chief Executive Officer on the arbitration process and an indication from the arbiter on why the process did not result in a resolution.

4. Request a Councillor Code of Conduct Panel

Where a resolution to the dispute has not been achieved through the above steps, or where agreed actions have not been implemented or achieved, the Applicant may then lodge a request for the appointment of a Councillor Conduct Panel through the Councils Conduct Panel Registrar (General Manager Corporate and Community Services). All written material lodged in the preceding steps of this dispute resolution process will form part of the application to be lodged seeking the establishment of a Code of Conduct Panel.

Comment [t2]: Wording changes made match that of the legislation

Comment [t3]: Section changes made due to legislation change

Comment [t4]: Wording changes made match that of the legislation

Murrindindi Shire Council Policy

Councillor Code of Governance



Contravention of the Code of Conduct

Section 81AB of the Act prescribes that if after an internal resolution procedure has been conducted, it is found that a Councillor has contravened the Councillor Code of Conduct, the Council may give any or all of the following written directions to the Councillor:

- direct the Councillor to make an apology in a form or manner specified by the Council;
- direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Council;
- direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by the Council, the Councillor—
 - be removed from any position where the Councillor represents the 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.

Comment [t5]: Wording changes made match that of the legislation

Councillor Misconduct or Serious Misconduct

Section 81B of the Act provides for the application for a Councillor Conduct Panel (CCP) to investigate alleged Councillor misconduct or serious misconduct. This application can be made by a Councillor, a group of Councillors or Council as a whole. An investigation into alleged misconduct or serious misconduct by a Councillor will be conducted according to Sections 81C-Z of the Act.

Comment [t6]: Wording changes made match that of the legislation

Introduction of Serious Misconduct

Misconduct by a Councillor is specified by the Act and means:

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

Comment [t7]: Definitions have changed under the Act

Serious misconduct is also specified in the Act and means:

- (a) the failure of a Councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor; or
- (b) the failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give; or
- (c) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel; or
- (d) 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
- (e) bullying of another Councillor or member of Council staff by a Councillor; or
- (f) conduct by a Councillor in respect of a member of Council staff in contravention of section 76E; or
- (g) the release of confidential information by a Councillor in contravention of section 77;

Determinations by a CCP or VCAT will be tabled at the next Ordinary Meeting of Council and recorded in the minutes of that meeting.

STATEMENT OF CARETAKER PROCEDURES

Murrindindi Shire Council has adopted an Election Caretaker Policy.

This Policy was adopted by Council at its Ordinary Meeting of 23 March 2016.

Comment [t8]: Changed date

Policy Responsible Officer: Coordinator Governance
April 2016
TRIM Reference: 16/15095

Murrindindi Shire Council Policy

Councillor Code of Governance



REFERENCES

The Code of Conduct has been developed in accordance with the Local Government Act 1989 and its subsequent amendments.

Further information can also be obtained from the Good Governance Guide 2012.

Murrindindi Shire Council has a number of Policies that support the implementation of the Code of Conduct. These can be obtained from the Council offices or available on Council's website.

Comment [t9]: Inclusion of Council's website and deletion of the summary list.

Murrindindi Shire Council Policy

Councillor Code of Governance



Attachment A- Code of Conduct Declaration Pro Forma

**Murrindindi Shire Council
Councillor Code of Conduct
Councillor Declaration**

Review and Adoption Date: 27 April 2016

I, Cr [Insert Councillor Name Here] declare I will abide by the Councillor Code of Conduct reviewed and adopted on 27 April 2016.

Signed: _____
(Cr [Insert Councillor Name Here] signature)

Witnessed: _____
(Margaret Abbey, Chief Executive Officer)

Date: _____