



# Council Policy Manual

## WEST WIMMERA SHIRE COUNCIL

COUNCIL POLICY	
<b>COUNCILLOR CODE OF CONDUCT POLICY</b>	Policy No:
	Adopted by Council: 17 February 2021
	Next review date: 21 February 2025
Senior Manager:	Chief Executive Officer
Responsible Officer:	Governance Manager
Functional Area:	Governance
Introduction and background	<p>As custodians of the West Wimmera Shire Council, Councillors hold a unique and important leadership role within Victoria.</p> <p>As Councillors we commit to carrying out our role to the highest standards of conduct and behaviour. As part of this commitment all Councillors will adhere to the standards of conduct, principles and processes outlined in the Local Government Act 2020 (the Act) and this Councillor Code of Conduct (this code).</p> <p>As Councillors of the West Wimmera Shire Council we are committed to working together in the best interests of the people within our municipality and to discharging our responsibilities to the best of our skill and judgment.</p> <p><b>CODE OF CONDUCT</b></p> <p>Section 139 of the Act states <i>that a Council must develop a Councillor Code of Conduct and that the purpose of the Councillor Code of Conduct is to include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.</i></p> <p><i>A Councillor Code of Conduct:</i></p> <ul style="list-style-type: none"> <li><i>a) must include the standards of conduct prescribed by the regulations expected to be observed by Councillors; and</i></li> <li><i>b) must include any provisions prescribed by the regulations for the purpose of this section; and</i></li> <li><i>c) must include provisions addressing any matters prescribed by the regulations for the purpose of this section; and</i></li> </ul>



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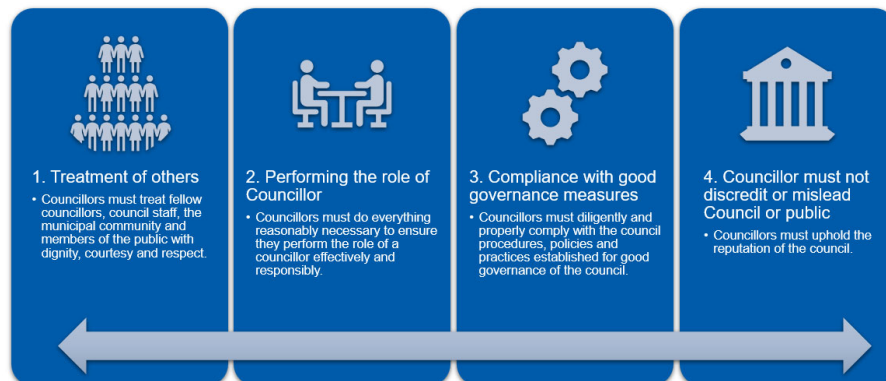
d) may include any other matters which the Council considers appropriate, other than any other standards of conduct.

*A Council must review and adopt the Councillor Code of Conduct within the period of 4 months after a general election. A Council must adopt the Councillor Code of Conduct by a formal resolution of the Council passed at a meeting by at least two-thirds of the total number of Councillors elected to the Council.*

### STANDARDS OF CONDUCT

The Standards of Conduct are included in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 (the Regulations). These standards are:

1. *treatment of Others;*
2. *performing the Role of Councillor;*
3. *compliance with Good Governance Measures;*
4. *Councillor must not discredit or mislead Council or public*



*Nothing in the standards of conduct set out in the Regulations 2020 is intended to limit, restrict or detract from robust public debate in a democracy.*

### APPLICATION OF THE CODE OF CONDUCT

As Councillors we must observe the Councillor Code of Conduct whenever we:

- a) conduct the business of Council;
- b) conduct the business of the office to which we have been elected or appointed;



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	<p>c) act as a representative of Council; and</p> <p>d) are participating in any dealings with the public, such as on social media.</p>
Purpose & Objectives	The purpose of the Councillor Code of Conduct is to include the standards of conduct expected to be observed by us as Councillors in the course of performing our duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.
Definitions	<p><b>The Act</b> means the Local Government Act 2020.</p> <p><b>The Regulations</b> means the Local Government (Governance and Integrity) Regulations 2020.</p> <p><b>This code</b> means the Councillor Code of Conduct.</p> <p><b>CEO</b> means Chief Executive Officer of Council.</p> <p><b><i>Text in italics</i></b> means wording as per the Act or the Regulations.</p>
Policy Details	
1	<p><b>Treatment of Others</b></p> <p><b>1. Standard of Conduct – Treatment of Others</b></p> <p>Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 states that a <i>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:</i></p> <ul style="list-style-type: none"> <li>a) <i>takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the Equal Opportunity Act 2010 ; and</i></li> <li>b) <i>supports the Council in fulfilling its obligation to achieve and promote gender equality; and</i></li> <li>c) <i>does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and</i></li> <li>d) <i>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.</i></li> </ul> <p><b>2. General Conduct</b></p> <p>In performing our role as Councillors we must:</p>



- a) act with integrity;
- b) impartially exercise our responsibilities in the best interests of the municipal community;
- c) not improperly seek to confer an advantage or disadvantage on any person;
- d) avoid conflicts between our public duties as a Councillor and our personal interests and obligations;
- e) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- f) treat all persons with respect;
- g) have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council officers and other persons;
- h) exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;
- i) endeavour to ensure that public resources are used prudently and solely in the public interest;
- j) act lawfully and in accordance with the trust placed in us as an elected representative; and
- k) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

### **3. Relationships between Councillors**

Council is comprised of a group of individuals who bring to Council their own unique skills, talents, personalities, backgrounds and divergent views. All Councillors need to be understanding and accepting of the differences between Councillors and recognise that this diversity enriches Council and is reflected in the policies, strategies and decisions which are made in the best interests of the entire municipal community.

Councillors need to be mindful that having and expressing differing and sometimes opposing viewpoints is a normal function of the process of democratic government and is just as much a part of local government as it is of the other levels of Australian government. Sharing and expressing these different views leads to informed and well considered debate. All Councillors have the right to influence, through this debate, the decisions made by Council.

Therefore, having differing views, politics or attitudes from other Councillors is not considered a conflict or a dispute and does not require resolution. Conflict does emerge when the differences become personal or the behaviour of Councillors towards each other is of a nature that threatens the effective operation of Council's decision making



processes.

As Councillors we will work collaboratively together by:

- a) respecting the right of each Councillor to speak and represent their views on the needs and rights of community members;
- b) always speaking well of each other and Council in public;
- c) demonstrating total commitment to consult with other Councillors, within the decision making framework and with no surprises;
- d) always being punctual to Council meetings and civic events;
- e) committing to a consultative approach to solving problems, developing effective decisions and communicating outcomes that build teamwork and cooperation;
- f) demonstrating leadership by focusing on issues and refraining from personalising matters particularly in relation to making personal remarks regarding other Councillors; and
- g) respecting each other's right to hold different views and debate strongly on matters of difference while being united in representing Council decisions.

#### **4. Conduct at Council Meetings**

The Governance Rules govern the conduct of Council Meetings. The Chair plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed and statutory requirements are met.

As Councillors we will comply with the Governance Rules and this Code when participating in Council meetings. We will act respectfully towards the Chair, our fellow Councillors, Council officers, guests and any community members or media attending the meeting.

#### **5. Interaction between Councillors and Council staff**

As Councillors we will work as part of the Council team with the CEO and other members of staff. There must be mutual respect and understanding between Councillors and officers in relation to their respective roles, functions and responsibilities.

Our role is one of advocacy and leadership rather than management and administration. The CEO is responsible for all staff matters.

As Councillors will accept that our role is one of leadership, not a management or administrative role; and in the interests of maintaining a high level of teamwork and encouraging good morale, there will be no personal criticism of Council staff in public by Councillors. If Councillors wish to express any such criticism, then the matter should be raised in a non-public forum.



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As effective Councillors we will work as part of the Council team, with the CEO, Directors and other members of Council staff. This teamwork will only occur if Councillors and staff have a mutual respect and cooperate with each other to achieve the Council's Council Plan.

As Councillors, we will be aware of the requirements of Section 124 of the Act and must not seek to improperly direct or influence members of Council staff in the exercise of their duties. (Please see section 3 in Chapter 4 below for a detailed explanation of this point).

As Councillors we must comply with the Councillor and Staff Interactions Policy.

<p style="text-align: center;"><b>Councillors expect that officers will:</b></p> <ul style="list-style-type: none"> <li>• <i>Act professionally and honestly with a good sense of humour</i></li> <li>• <i>Provide recommendations that are accurate, timely and outline alternatives and their implications</i></li> <li>• <i>Act devoid of bias</i></li> <li>• <i>Make recommendations that are consistent with the Council Plan</i></li> <li>• <i>Be accessible within reason and respond in a timely manner</i></li> </ul>	<p style="text-align: center;"><b>Officers expect that Councillors will:</b></p> <ul style="list-style-type: none"> <li>• <i>Convey principles and Council values</i></li> <li>• <i>Say when they don't understand something and ask for clarification</i></li> <li>• <i>Not interfere in operational matters – advice and questions will be directed to the CEO and Directors</i></li> <li>• <i>Have a vision for the Council and represent the community's interest</i></li> <li>• <i>Share information early</i></li> <li>• <i>Respect and trust professional opinion</i></li> </ul>
<p style="text-align: center;"><b>Councillors agree to give to officers:</b></p> <ul style="list-style-type: none"> <li>• <i>Professional and honest behaviour</i></li> <li>• <i>Diversity – A broad range of skills, perceptions and opinions</i></li> <li>• <i>Trust, good judgement and vision</i></li> <li>• <i>Community linkages</i></li> <li>• <i>Healthy productive debate</i></li> </ul>	<p style="text-align: center;"><b>Officers agree to give to Councillors:</b></p> <ul style="list-style-type: none"> <li>• <i>Frank and fearless advice</i></li> <li>• <i>The whole story</i></li> <li>• <i>Acknowledge mistakes</i></li> <li>• <i>Full support</i></li> <li>• <i>The same advice will be provided to all Councillors</i></li> <li>• <i>Benefit of experience and expertise</i></li> </ul>



### **6. Interaction with the Community**

Accessibility of Councillors at the community level means that our actions and behaviour are closely monitored. In performing our role as Councillors, the community expects that we will comply with any laws, in particular the Act and its associated Regulations, and will be aware of our responsibility to comply with the standards of conduct.

As Councillors we will:

- a) be mindful of our broad responsibility of serving the best interests of the entire municipality;
- b) work with other levels of government and organisations to achieve benefits for the community at both a local and regional level;
- c) keep the community informed about the Council's activities and plans and report to the community on these matters on a regular basis;
- d) act in a reasonable and fair way, and in a manner which is not discriminatory; and
- e) treat all members of the community honestly and fairly and in a way which does not cause offence or embarrassment to individuals or groups.

### **7. Communications**

As representatives of the municipal community, Councillors have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.

As Councillors we will respect that the Mayor together with the CEO are the designated persons authorised to speak to the media and others on behalf of the Council.

Individual Councillors are entitled to express their personal opinions through the media, including social media. Where we choose to do so, we will make it clear that such comment is a personal view and does not represent the position of Council. Councillors must ensure that any such comment is devoid of comments that could reasonably be construed as being derogatory, offensive or insulting to any person.

As Councillors we acknowledge that when we are accessing and/or using Council's internet, email and electronic communications, and other Council resources, we need to comply with the Councillor Expenses Policy.

### **8. Requests for Service/Complaints**

A Councillor request for service is a request made by a Councillor on their own behalf, or on behalf of a community member. All requests for service will be made in accordance with the



### Councillor and Staff Interactions Policy.

In accordance with the Victorian Ombudsman's good practice guide, to ensure transparency and fairness, complaints received from Councillors will be treated the same way as ones made to Council officers. A Councillor must not seek to direct or influence the complaint handling process.

#### **9. Harassment and Discrimination**

As Councillors we must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.

For the purposes of this code, "harassment" is any form of behaviour towards a person that:

- a) is not wanted by the person;
- b) offends, humiliates or intimidates the person; and
- c) creates a hostile environment.

#### **10. Bullying**

As Councillors we must not engage in bullying behaviour towards others.

For the purposes of this code, "bullying" by a Councillor means the Councillor repeatedly behaves unreasonably towards another Councillor or a 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 includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:

- a) aggressive, threatening or intimidating conduct;
- b) belittling or humiliating comments;
- c) spreading malicious rumours;
- d) teasing, practical jokes or 'initiation ceremonies';
- e) exclusion from work-related events;
- f) unreasonable work expectations, including too much or too little work, or work





	<p>below or beyond a worker's skill level;</p> <p>g) displaying offensive material; or</p> <p>h) pressuring a person to behave in an inappropriate manner.</p> <p>As Councillors we are the employer of the CEO. We note that reasonable management action carried out in relation to the performance of the CEO, in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:</p> <p>a) performance management processes;</p> <p>b) disciplinary action;</p> <p>c) informing the CEO about unsatisfactory work performance or inappropriate work behaviour;</p> <p>d) directing the CEO to perform duties in keeping with their job;</p> <p>e) maintaining reasonable workplace goals and standards;</p> <p>f) legitimately exercising a regulatory function; or</p> <p>g) legitimately implementing a council policy or administrative processes.</p> <p><b>11. Promoting Wellbeing in the Workplace</b></p> <p>Council has a duty of care under the Occupational Health and Safety Act 2004, to protect anyone in the workplace or who comes into contact with any Council activities. Council will put into place strategies, policies, procedures and work instructions to ensure this occurs and that Council complies with the Occupational Health and Safety Act 2004 so as far as is reasonably practicable.</p> <p>As Councillors we will ensure that our behaviour in the Council workplace is consistent with promoting and maintaining a healthy workplace.</p>
<b>2</b>	<p><b>Performing the Role of a Councillor</b></p> <p><b>1. Standard of Conduct – Performing the Role of a Councillor</b></p> <p>Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 states that <i>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:</i></p> <p>a) <i>undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively</i></p>



*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.*

### **2. Role of Council**

Section 8 of the Act states *that the role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.*

*A Council provides good governance if:*

- a) it performs its role in accordance with Section 9 (the overarching governance and supporting principles); and*
- b) the Councillors of the Council perform their role in accordance with Section 28 (the role of Councillor).*

### **3. Role of Councillor**

Our primary role as Councillors is to set the vision and direction for the West Wimmera Shire Council, to advocate on behalf of the municipal community, and to make a range of decisions on issues which affect the community.

The business of Council will be conducted in a professional manner with efficiency and impartiality; whilst demonstrating compassion and sensitivity towards the needs of the community. We acknowledge our obligations as Councillors to carry out our duties in the best interests of the community and in accordance with the Act.

Section 28 of the Act states *that the role of every Councillor is:*

- a) to participate in the decision making of the Council;*
- b) to represent the interests of the municipal community in that decision making;*
- c) to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.*

*In performing the role of a Councillor, a Councillor must:*

- a) consider the diversity of interests and needs of the municipal community;*



- b) *support the role of the Council;*
- c) *acknowledge and support the role of the Mayor;*
- d) *act lawfully and in accordance with the oath or affirmation of office;*
- e) *act in accordance with the standards of conduct;*
- f) *comply with Council procedures required for good governance.*

*The role of a Councillor does not include the performance of any responsibilities or functions of the CEO.*

#### **4. Role of the Mayor**

Section 18 of the Act states that *the role of the Mayor is to:*

- a) *chair Council meetings;*
- b) *be the principal spokesperson for the Council;*
- c) *lead engagement with the municipal community on the development of the Council Plan;*
- d) *report to the municipal community, at least once each year, on the implementation of the Council Plan;*
- e) *promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct;*
- f) *assist Councillors to understand their role;*
- g) *take a leadership role in ensuring the regular review of the performance of the CEO;*
- h) *provide advice to the CEO when the CEO is setting the agenda for Council meetings; and*
- i) *perform civic and ceremonial duties on behalf of the Council.*

Section 19 of the Act states that *the Mayor has the following specific powers:*

- a) *to appoint a Councillor to be the chair of a delegated committee;*
- b) *to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;*
- c) *to require the CEO to report to the Council on the implementation of a Council decision.*



### **5. Role of the CEO**

Council's administration is accountable to Council through the CEO, who is responsible for the management and administration of the organisation. The organisation is responsible for implementing Council policy and decisions, operational policy and procedures, service delivery and providing professional advice to Council.

The CEO will provide professional, relevant and timely information to the Council, and maintain a close working relationship that supports the Mayor.

Section 94A of the Local Government Act 1989 states that a *CEO is responsible for:*

- a) establishing and maintaining an appropriate organisational structure for the Council;*
- b) ensuring that the decisions of the Council are implemented without undue delay;*
- c) day to day management of the Council's operations in accordance with the Council Plan;*
- ca) developing, adopting and disseminating a code of conduct for Council staff;*
- d) providing timely advice to the Council;*
- da) ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act;*
- db) supporting the Mayor in the performance of the Mayor's role as Mayor;*
- e) carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Accident Compensation Act 1985 or the Workplace Injury Rehabilitation and Compensation Act 2013;*
- f) performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act;*
- g) appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff;*
- h) managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.*

The Chief Executive Officer may appoint as many members of Council staff as are required to enable the functions of the Council under this Act or any other Act to be carried out and to enable the Chief Executive Officer to carry out her or his functions.

### **6. Resources, Facilities and Support for Councillors**

It is a function of the CEO to support the Mayor, Deputy Mayor and Councillors in the



	<p>performance of their roles. The Council Expenses Policy details the resources, facilities and support available to Councillors in the performance of their roles.</p> <p><b>6.1 Use of Council Resources</b></p> <p>As Councillors we commit to using Council resources effectively and economically. We will:</p> <ul style="list-style-type: none"><li>a) maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role and will comply with any Council policies applying to their use;</li><li>b) ensure any expense claims that we submit are in compliance with the relevant legislative provisions and Council policy;</li><li>c) ensure that Council resources are always used effectively and economically and for the purposes for which they are provided;</li><li>d) not use Council resources, including services of Council staff, equipment and intellectual property for electoral purposes;</li><li>e) not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and</li><li>f) not use public funds or resources in a manner that is improper or unauthorised.</li></ul> <p>Any use of Council Resources will be in accordance with the Councillor and Staff Interactions Policy and the Council Expenses Policy.</p>
3	<p><b>Compliance with good governance measures</b></p> <p><b>1. Standard of Conduct – Compliance with Good Governance Measures</b></p> <p>Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 states that <i>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:</i></p> <ul style="list-style-type: none"><li>a) <i>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;</i></li><li>b) <i>the Council expenses policy adopted and maintained by the Council under section 41 of the Act;</i></li><li>c) <i>the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;</i></li><li>d) <i>any directions of the Minister issued under section 175 of the Act.</i></li></ul>



### **2. Compliance with Council Policies and Procedures**

As Councillors we must comply with all Council policies and procedures which apply to Councillors in accordance with the Act or any other legislation.

### **3. Personal Interest Returns**

Personal Interests Returns are a new requirement under Division 3 of Part 6 (sections 132-136) of the Act. In addition, the Regulations set out the detail that needs to be provided for each interest return.

#### **3.1 Initial Personal Interest Returns**

Section 133 of the Act states that Councillors *must lodge an initial personal interests return with the Chief Executive Officer containing the matters prescribed by the regulations, within 30 days of taking the oath or affirmation of office of a Councillor.*

#### **3.2 Biannual Personal Interest Returns**

Between 1 March and 31 March, and between 1 September and 30 September each year, a Councillor must lodge a Biannual Personal Interest Return. This should provide updates to any information provided in the last submitted return.

#### **3.3 Public Access to Information in Personal Interest Returns**

Sections 135 and 136 of the Act and the Regulations set out the level of information that can be accessed or disclosed publicly from information submitted in the Public Interest Returns. Councillors acknowledge the public access to this information upholds the Public Transparency Principles of the Act and is conducted in accordance with Council's Public Transparency Policy.

#### **3.4 Penalties regarding Personal Interest Returns**

Failure to submit an initial Personal Interests Return or subsequent Biannual Personal Interest Returns by the due dates can attract a penalty of up to 60 penalty units. (The value of a penalty unit is \$165.22 (as at 1 July 2020)). There are also penalties for intentionally or recklessly providing false or incomplete information.

### **4. Governance Rules**

Section 60 of the Act states that *a Council must develop, adopt and keep in force Governance Rules for or with respect to the following:*

- a) *the conduct of Council meetings;*
- b) *the conduct of meetings of delegated committees;*



- c) *the form and availability of meeting records;*
- d) *the election of the Mayor and the Deputy Mayor;*
- da) *the appointment of an Acting Mayor;*
- e) *an election period policy in accordance with Section 69;*
- f) *the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under Section 130;*
- g) *the procedure for the disclosure of a conflict of interest by a Councillor under Section 131;*
- h) *the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of Section 126(1);*
- i) *any other matters prescribed by the regulations.*

Section 60(6) of the Act requires that *Council must comply with its Governance Rules.*

### **5. Council Decision Making**

We are committed to making all decisions impartially and in the best interests of the whole municipal community and acknowledge that effective decision-making is vital to the democratic process and an essential component of good governance. Councillors will act fairly and without bias when making decisions that affect the rights and interests of others, and in accordance with 'natural justice'.

We will listen to each other as matters are discussed in Council Meetings, and not pre-determine any decisions proposed to be made prior to consideration at a Council Meeting. As part of this consideration, we will take into account the outcomes of consultation or feedback from the community on a matter.

Accordingly:

- a) we will actively and openly participate in the decision making process, striving to be informed to achieve the best outcome for the community;
- b) we will respect the views of the individual in the debate. However, we also accept that decisions are based on a majority vote; and
- c) we accept that no councillor can direct another Councillor on how to vote on any decision.

### **6. Fairness and Equity**

As Councillors we must consider issues impartially and fairly by taking into consideration all relevant facts known to us. As Councillors we must also have regard to the specific merits of each case and must not take irrelevant matters or circumstances into consideration when



making decisions.

We must consider issues consistently, promptly and fairly, and must deal with matters in accordance with established procedures, in a non-discriminatory manner. We must take all relevant facts known to us, or that we should be reasonably aware of, into consideration and have regard to the particular merits of each case.

### **7. Council Meetings**

Council Meetings must focus on the business of Council and provide an environment for transparent and healthy debate on matters requiring decision making. Councillors must comply with the Governance Rules as adopted or amended by Council to govern the conduct of meetings of Council and special committees.

The Mayor must chair meetings of the Council at which he or she is present and in doing so will:

- a) retain control at all times;
- b) be impartial;
- c) preserve order; and
- d) ensure that the business is conducted in a proper manner.

As Councillors we are committed to paying respect to the Chair at all times.

The Chair should be conscious of the needs of each Councillor and will facilitate their entry into discussions and allow fair debate and participation.

### **8. Formal Community Forums**

Forums will be convened from time to time to enable community members to express their views in relation to a specific matter. Councillors invited or appointed to hear from the community may ask questions to clarify issues raised. However, Councillors will not behave or comment in a way that may be perceived as pre-determining their own, or Council's, position in relation to a matter, or direct Council officer responses.

Formal community forums include:

- a) Hearing of Submissions meetings – convened to hear from people in support of written submissions in relation to matters such as proposals to adopt a Budget, Council Plan or Local Law, or in relation to selling Council property;
- b) Single issue consultation forums – coordinated by the department responsible for a proposal or response to a community issue, single issue forums will be arranged as required.

While these forums are all formal in nature and may involve some or all of the Councillors,





	<p>these forums are not meetings of the Council and Councillors will not make decisions at these forums, or commit Council to a course of action.</p> <p><b>9. Land Use planning, development assessment and other regulatory functions</b></p> <p>As Councillors we recognise the separation of our roles and responsibilities from those of the CEO and Council officers and as such will abstain from involvement in functions such as the issuing of permits, the consideration of fines, prosecutions and other similar regulatory functions of the Shire.</p> <p>In relation to planning matters, this extends to there being no meetings with applicants, objectors and any/or other related party unless accompanied by a Planning Officer and only if the meeting has been authorised by the relevant Director.</p> <p>As Councillors we will observe due regard to procedural fairness, the absence of bias in decision-making and will conform with relevant legislation and policies in the consideration of planning matters, including conflict of interest provisions, and the Councillor and Staff Interactions Policy.</p>
4	<p><b>Councillors must not discredit or mislead council or the public</b></p> <p><b>1. Standard of Conduct – Councillors must not discredit or mislead Council or the public</b></p> <p>Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 states that</p> <ol style="list-style-type: none"><li><i>In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.</i></li><li><i>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.</i></li></ol> <p><b>2. Misuse of Position</b></p> <p>Section 123 of the Act states that <i>a person who is, or has been, a Councillor or member of a delegated committee must not intentionally misuse their position:</i></p> <ol style="list-style-type: none"><li><i>to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or</i></li><li><i>to cause, or attempt to cause, detriment to the Council or another person.</i></li></ol> <p><i>For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a delegated committee include—</i></p>



- a) *making improper use of information acquired as a result of the position the person held or holds; or*
- b) *disclosing information that is confidential information; or*
- c) *directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or*
- d) *exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or*
- e) *using public funds or resources in a manner that is improper or unauthorised; or*
- f) *participating in a decision on a matter in which the person has a conflict of interest.*

The penalty for breach of Section 123 is 600 penalty units or 5 years imprisonment, and is an indictable offence.

### **3. Directing a member of Council Staff**

Section 124 of the Act states that a *Councillor must not intentionally direct, or seek to direct, a member of Council staff:*

- a) *in the exercise of a delegated power, or the performance of a delegated duty or function, of the Council; or*
- b) *in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or*
- c) *in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under this Act or any other Act; or*
- d) *in relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.*

The penalty for breach of Section 124 is 120 penalty units.

### **4. Handling and Use of Confidential Information**

Section 125(1) of the Act states *a person who is, or has been, a Councillor, a member of a delegated committee or a member of Council staff, must not intentionally or recklessly disclose information that the person knows, or should reasonably know, is confidential information.*

The penalty for breach of section 125 of the Act is 120 penalty units.

*Section 125(1) does not apply if the information that is disclosed is information that the*



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*Council has determined should be publicly available.*

Section 3(1) of the Act state that *confidential information means the following information—*

- a) *Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;*
- b) *security information, being information that if released is likely to endanger the security of Council property or the safety of any person;*
- c) *land use planning information, being information that if prematurely released is likely to encourage speculation in land values;*
- d) *law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;*
- e) *legal privileged information, being information to which legal professional privilege or client legal privilege applies;*
- f) *personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;*
- g) *private commercial information, being information provided by a business, commercial or financial undertaking that—*
  - i. *relates to trade secrets; or*
  - ii. *if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;*
- h) *confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);*
- i) *internal arbitration information, being information specified in section 145;*
- j) *Councillor Conduct Panel confidential information, being information specified in section 169;*
- k) *information prescribed by the regulations to be confidential information for the purposes of this definition;*
- l) *information that was confidential information for the purposes of section 77 of the Local Government Act 1989.*

Councillors will be provided with relevant information from the organisation to help them make informed decisions and fulfil their duties. This information may be publicly available, or in some instances confidential.

As Councillors we will observe the confidentiality of the information that we receive in the



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course of performing our Councillor duties and responsibilities, and will not convey (electronically, verbally, or in writing) information we know, or should reasonably know, is confidential.

Section 125(3) of the Act states that *a person who is, or has been, a Councillor, a member of a delegated committee or a member of Council staff, may disclose information that the person knows, or should reasonably know, is confidential information in the following circumstances—*

- a) *for the purposes of any legal proceedings arising out of this Act;*
- b) *to a court or tribunal in the course of legal proceedings;*
- c) *pursuant to an order of a court or tribunal;*
- d) *in the course of an internal arbitration and for the purposes of the internal arbitration process;*
- e) *in the course of a Councillor Conduct Panel hearing and for the purposes of the hearing;*
- f) *to a Municipal Monitor to the extent reasonably required by the Municipal Monitor;*
- g) *to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;*
- h) *to a Commission of Inquiry to the extent reasonably required by the Commission of Inquiry;*
- i) *to the extent reasonably required by a law enforcement agency.*

### **5. Conflict of Interest Procedures**

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

In addition to the requirements of the Act:

- a) Councillors will give early consideration to each matter to be considered by Council, or any committee of which the Councillor is a member, to ascertain if he or she has a conflict of interest. This can be done by ensuring that the agenda of any meeting is read well ahead of time before the meeting is held.
- b) Councillors will recognise that while we may seek advice about a possible conflict of interest, the legal onus rests entirely with each Councillor. If a Councillor cannot confidently say that he or she does not have a conflict of



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interest, the Councillor will err on the side of caution and declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest.

Division two of the Act deals specifically with Conflict of Interest and Section 127 determines that a relevant person has 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.

Section 128 of the Act states that a relevant person has 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.

The following provides a guide in relation to the determination of conflicts of interest.



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Direct interest	<p>Reasonably likely that your benefits, obligations, opportunities or circumstances will be directly altered.</p> <p>Reasonably likely you receive a direct benefit or loss measurable in financial terms.</p> <p>You have, or you together with a member(s) of your family have, a controlling interest in a company, club, organisation or other body that has a direct interest.</p>
Close association	<p>A member of your family has a direct or indirect interest.</p> <p>A member of your household has a direct or indirect interest.</p> <p>A relative has a direct interest.</p>
Indirect Financial Interest	<p>Reasonably likely you receive a direct benefit or loss measurable in financial terms, resulting from a change to another person's interests.</p> <p>Holding shares in a company or body that has a direct interest (subject to a threshold - \$10,000 value of shares if the company shares on issue exceed \$10 million).</p> <p>When a person with a direct interest owes you money, or you owe money to a person with a direct interest.</p>
Conflict of Duty	<p>Manager or member of the governing body of an organisation with a direct interest.</p> <p>Partner, consultant, contractor, agent or employee of a person, company or organisation with a direct interest.</p> <p>Trustee or beneficiary of a person with a direct interest.</p> <p>Past dealings in relation to the matter as a duty to another person or body.</p>
Applicable Gift	<p>Election donations valued at or above \$500 in the previous five years.</p> <p>Other gifts valued at or above \$500 over a five-year period excluding reasonable hospitality received when attending functions in an official Council capacity.</p> <p>A gift received within the 12 months preceding the date of you becoming a Councillor.</p>
Party to a matter	<p>Initiated or became party to civil proceedings in relation to the matter.</p>
Impact on Residential Amenity	<p>Reasonably likely that your residential amenity will be directly altered.</p>
Conflicting with Public Duty	<p>Your personal interest is in conflict with your public duty as a Councillor in relation to a matter. Application needs to be made to the Council/Delegated Committee to be exempted from voting. (The Council/Delegated Committee cannot reasonably withhold its consent)</p>



### **6. Gifts and Bribery**

As Councillors we will scrupulously avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from the Council.

We will take all reasonable steps to ensure that our family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

We will not accept gifts either in our role as Councillor or where it could be perceived to influence us in our role as a Councillor except:

- a) Where the gift would generally be regarded as only having a token value and could not be perceived to influence our actions as a councillor.
- b) Where refusal may cause offence or embarrassment, in which case we will accept the gift on behalf of the Council and the gift becomes the property of the Council.

As Councillors we must comply with the Councillor Gift Policy adopted in accordance with section 138 of the Act.

### **7. Fraud and Corruption**

As Councillors we will establish and maintain an environment in which fraud is not tolerated, and stakeholders, including staff, contractors and volunteers are encouraged to actively protect Council's assets, reputation and ethical standing.

As Councillors we will conduct ourselves in accordance with Council's Fraud and Corruption Control Policy.

### **8. Other business or employment**

Councillors may undertake representation of the Council through appointment to government boards or sector committees, or they may join the bodies as a community representative on a particular group. It is important that Councillors clearly understand the basis of their appointment, maintain a positive image of the Council, and represent the Council policy position where appointed to the position by Council.

Councillors who are formally appointed to Committees through the Councillor Delegates and Representatives process are required to provide regular reports to the Council on the activities of the organisation (unless required to do otherwise by virtue of their terms of appointment).

### **9. Personal dealings with Council**

Councillors may have reason to deal with Council in a personal capacity (for example, as a



ratepayer, recipient of a Council service or applicant for a development consent granted by Council).

When we deal with our Council in our private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) we do not expect nor will we request preferential treatment in relation to any such private matter. We will avoid any action that could lead Council staff or members of the public to believe that we are seeking preferential treatment.

As Councillors we must undertake any personal dealings we have with the Council in a manner that is consistent with the way other members of the community deal with the Council. Councillors must also ensure that they disclose and appropriately manage any conflict of interest they may have in any matter in accordance with the requirements of the Act and the Governance Rules.

### **10. Political Affiliations**

Councillors will maintain a clear and primary duty to the municipal community, rather than a political body or other jurisdiction. Councillors will avoid conflicts of interest, or the appearance of conflicts of interest, that affiliation with a political party may create.

Councillors will remain mindful of the importance of real and perceived impartiality of their position and will not act in a way to compromise this. Councillors will not use Council resources to promote a political body or related organisation.

If Councillors wish to run in a Federal or State election they will take a leave of absence from Council during this period. If successfully elected to another level of government, a Councillor will resign as a Councillor of West Wimmera Shire Council.

### **11. Elections**

Councillors will not use their position as an elected representative in a way that contributes to, or may be interpreted as contributing to, the campaign or election activities of a candidate for the position of member of the Parliament of Victoria or a member of the Parliament of the Commonwealth of Australia or of another State or a Territory of the Commonwealth.

As Councillors we must comply with Council's Election Period Policy, which is included within its Governance Rules.

The Election Period Policy was developed to ensure that the general elections of West Wimmera Shire Council are conducted in a manner that is ethical, fair and equitable to all candidates and is publicly perceived as such.

Prior to an election period the CEO will ensure that all Councillors and all members of Council staff are aware of the application of the Election Period Policy.





### 12. Child Safe Standards

Victorian organisations that provide services to children are required under the Child Safety and Wellbeing Act 2005 to ensure that they protect children from harm. This Code aims to protect children and reduce any opportunities for abuse or harm to occur. It also helps Councillors by providing them with guidance on how to best support children and how to avoid or better manage difficult situations. As Councillors we are responsible for promoting the safety and wellbeing of children and young people who engage with Council by:

- a) adhering to all relevant Australian and Victorian legislation and Council policies;
- b) raising concerns with the CEO if risks to child safety are identified in any of the activities, facilities, structures, procedures or staffing practices at Council;
- c) taking all reasonable steps to protect children from abuse;
- d) treating children with respect and being a positive role model in our conduct with them;
- e) communicating with children in an age appropriate and realistic manner;
- f) listening to and valuing the ideas and opinions of children and young people;
- g) setting clear boundaries about appropriate behaviour between ourselves and children;
- h) observing professional boundaries with children at all times.

As Councillors we must not:

- a) condone or participate in behaviour with children that is illegal, unsafe or abusive;
- b) ignore or disregard any concerns, suspicions or disclosures of child abuse;
- c) communicate with a child in ways that are likely to humiliate, frighten or distress the child;
- d) use hurtful, discriminatory or offensive behaviour or language with children;
- e) subject a child to any form of corporal punishment, social isolation, immobilisation, sexual suggestion, offence or misconduct;
- f) direct a child to perform in a sexually provocative or unsafe manner;
- g) develop any 'special' relationships with children that could be seen as grooming/favouritism, such as the offering of gifts or special treatment;
- h) have unauthorised contact with children and young people online, on social media or by phone.

All Councillors are encouraged to obtain a Working with Children Check, if they do not



	<p>currently have one. Councillors acknowledge that if they do not have a current Working with Children Check, then they will not be able to closely associate with children as part of undertaking their role as a Councillor (for example attending a kindergarten when children are present).</p>
<b>5</b>	<b>Maintaining the integrity of this code</b>
	<b>1. Complaints made for an improper purpose</b> <p>As Councillors we must not make, or threaten to make, a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.</p> <p>A complaint is made for an improper purpose where it is:</p> <ul style="list-style-type: none"><li>a) trivial, frivolous, vexatious or not made in good faith; or</li><li>b) where it otherwise lacks merit; or</li><li>c) has been made substantially for one or more of the following purposes:<ul style="list-style-type: none"><li>i. to bully, intimidate or harass another person;</li><li>ii. to damage another person's reputation;</li><li>iii. to obtain a political advantage;</li><li>iv. to influence a person in the exercise of their official functions or to prevent or disrupt the exercise of those functions;</li><li>v. to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions;</li><li>vi. to avoid action being taken under this Code;</li><li>vii. to take reprisal action against a person for making a complaint alleging a breach of this Code;</li><li>viii. to take reprisal action against a person for exercising a function prescribed under this Code;</li><li>ix. to prevent or disrupt the effective administration of this Code.</li></ul></li></ul>
	<b>2. Detrimental Action</b> <p>Councillors must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.</p> <p>A detrimental action is an action causing, comprising or involving any of the following:</p>



- a) injury, damage or loss;
- b) intimidation or harassment;
- c) discrimination, disadvantage or adverse treatment in relation to employment;
- d) dismissal from, or prejudice in, employment;
- e) disciplinary proceedings.

### **3. Disputes Between Councillors**

#### **3.1 Facilitated resolution between parties**

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. The following Councillors dispute resolution procedure will apply regardless of the dynamics and numbers involved.

Before commencing any formal dispute resolution process, the Councillors who are party to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the municipal community.

If, however, there is a dispute resulting from an interpersonal conflict between Councillors that cannot be resolved and it is unduly affecting the operation of Council, the Mayor will attempt to facilitate a resolution between the parties.

Either party involved in the dispute, or some other Councillor, may refer the dispute to the Mayor. The Mayor will investigate whether a dispute exists and requires resolution. The Mayor may call the parties involved to meet to resolve the dispute. These initial meetings may include the participation of other mutually agreed person/s.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to their role as a Councillor and compliance with this Code, the Act, the Governance Rules and any other policies which apply to Councillors.

If one or both of the parties to the dispute believes that the dispute has not been resolved following initial discussions to attempt to resolve the dispute, either or both parties may ask the Mayor to request the CEO to engage a professional mediator or conciliator.

At any stage in this process, if one party to the dispute does not acknowledge there is a dispute and is not willing to cooperate in discussions to resolve the alleged dispute, the dispute resolution process can only be continued if Council, through a resolution at a Council meeting, determines that a dispute does exist



between the parties and requests that mediation/conciliation be commenced.

It is compulsory for all parties to the dispute to attend mediation/conciliation where this has been requested by a resolution of Council.

The Mayor may call upon the CEO for advice and guidance at any point in this process.

### **3.2 Mediation/Conciliation**

The CEO will arrange for a qualified mediator/conciliator to be engaged.

If a mediator/conciliator is engaged, all Councillors will cooperate with the dispute resolution process and provide reasonable assistance to the mediator/conciliator when requested.

Following mediation/conciliation a report will be prepared for the CEO by the mediator/conciliator which is to include the recommendations and actions to be taken as a consequence of the mediation/conciliation. Copies of the report are to be provided to both parties.

Where one party does not comply with the agreement, the other party has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

### **3.3 Dispute between Mayor and other Councillors**

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor who will carry out the role of the Mayor in this Dispute Resolution Process.

If the dispute is between the Mayor and the Deputy Mayor and another Councillor/s, two other Councillors may, after consultation with the CEO recommend to Council that an external mediator or conciliator be engaged. All other aspects of the dispute resolution procedure apply.

## **4. Breach of the Prescribed Standards of Conduct**

### **4.1 Internal Arbitration process**

Section 141 of the Act states that *the internal arbitration process applies to any breach of the prescribed standard of conduct.*



*The following applies to an internal arbitration process:*

- a) *any processes prescribed by the regulations, including any application process;*
- b) *the arbiter must ensure that parties involved in internal arbitration process are given an opportunity to be heard by the arbiter;*
- c) *the arbiter must 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;*
- d) *any requirements prescribed by the regulations.*

### **4.2 Making an Application**

Section 143 of the Act states that *an application for an internal arbitration process to make a finding of misconduct against a Councillor may be made by:*

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

*An application must be made within 3 months of the alleged misconduct occurring.*

*The application must 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.*

The application must include:

- a) *the name of the Councillor alleged to have breached the standards of conduct;*
- b) *the clause of the standards of conduct that the Councillor is alleged to have breached;*
- c) *the misconduct that the Councillor is alleged to have engaged in that resulted in the breach;*

After receiving an application under section 143 of the Act, the Councillor Conduct Officer provides the application to the Councillor who is the subject of the application.

### **4.3 Principal Councillor Conduct Registrar must examine application**

Section 144 of the Act states that *the Principal Councillor Conduct Registrar, after examining an application under section 143, must appoint an arbiter to the Council to hear the matter if the Principal Councillor Conduct Registrar is satisfied*



that:

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

*The Principal Councillor Conduct Registrar must reject an application if the Principal Councillor Conduct Registrar is not satisfied under subsection (a) or (b) above.*

*The rejection of an application by the Principal Councillor Conduct Registrar under this section does not prevent a further application being made in respect of the same conduct by a Councillor that was the subject of the rejected application.*

#### **4.4 Arbiter must refer certain applications**

*Section 146 of the Act states that if, at any time before, during or after the hearing of an application for an internal arbitration process, 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 under section 154, the arbiter must refer the matter in writing to the Principal Councillor Conduct Registrar.*

*If the Principal Councillor Conduct Registrar receives a referral under subsection (1), the Principal Councillor Conduct Registrar must notify the parties to the application for an internal arbitration process that the matter has been referred by the arbiter.*

#### **4.5 Hearing by the Arbiter**

An arbiter appointed to hear a matter subject to an application must:

- a) *conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and*
- b) *ensure that the hearing is not open to the public.*

An arbiter:

- a) *may hear each party to the matter in person or solely by written or electronic means of communication; and*
- b) *is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit; and*
- c) *may at any time discontinue the hearing if the arbiter considers that*



- i. the application is vexatious, misconceived, frivolous or lacking in substance; or
- ii. the applicant has not responded, or has responded inadequately, to a request for further information.

Section 145 of the Act states that *information provided to an arbiter or produced by an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons, is confidential information.*

#### **4.6 Sanctions that may be imposed by an arbiter on finding of misconduct**

Section 147 of the Act states that *if after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the prescribed standards of conduct, the arbiter may make a finding of misconduct against the Councillor.*

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

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

#### **4.7 Next Steps**

Section 147 of the Act states that *the arbiter must provide a written copy of the arbiter's decision and statement of reasons to:*

- a) *the Council;*
- b) *the applicant or applicants;*
- c) *the respondent; and*
- d) *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 the Council 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 being tabled at a Council meeting.*

### **5. No Applications during Election Period**

An application cannot be made for an internal resolution procedure 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 internal resolution procedure 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:

- a) the application was made by the Council and the Council so resolves; or
- b) 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
- c) the applicant (individual Councillor) is returned to office and wishes to proceed with the application.





# Council Policy Manual WEST WIMMERA SHIRE COUNCIL

6.

## Endorsement

We, the undersigned, declare that we will abide by this Councillor Code of Conduct adopted by Council at its meeting on 16 February 2021.

Mayor Cr Bruce  
Meyer

  
.....

Dated: 03.03.2021

Deputy Mayor Cr  
Jodie Pretlove

  
.....

Dated: 23.03.2021

Cr Trevor  
Domaschenz

  
.....

Dated: 03.03.2021

Cr Tom Houlihan

  
.....

Dated: 03.03.2021

Cr Tim Meyer

  
.....

Dated: 03.03.2021



# Council Policy Manual

## WEST WIMMERA SHIRE COUNCIL

<b>Policy Adopted:</b>	17th February 2021	Minute Book Page [number]	RecFind
<b>Policy Reviewed:</b>	Ordinary Meeting [date]	Minute Book Page [number]	RecFind