



BULOKE
SHIRE COUNCIL

COUNCILLOR CODE OF CONDUCT

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INTRODUCTION

In accordance with section 139 of the *Local Government Act 2020 (Act)* Council is required to develop and maintain a Councillor Code of Conduct which complies with the legislative requirements of the Act and the *Local Government (Governance and Integrity) Regulations 2020 (Regulations)*.

GUIDELINES FOR GOOD CONDUCT

As Councillors, we are committed to constructively working with each other and Council staff in the best interests of the municipal community and will discharge our responsibilities to the best of our skill and judgment in order to enrich the cultural, social and economic viability of the Shire.

PURPOSE

The purpose of this 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.

This Code:

- sets out standards of conduct expected of Councillors;
- endeavours to foster good working relationships between Councillors to enable Councillors to work constructively and in the best interests of the municipal community; and
- mandates Councillor conduct designed to build public confidence in the integrity of Council and Local Government generally.

The values that underpin this Code incorporate respect and consideration of fellow Councillors, all staff and the Buloke community.

We undertake to communicate openly and honestly with each other, demonstrating an appreciation for the professional views, abilities and the unique contributions each of us will make toward the effective governance of the Buloke Shire Council.

Councillors are an extension of the community they represent so the community's expectations of Councillors are high, firstly as representatives but secondly to ensure the business of Council is conducted with efficiency and impartiality, whilst demonstrating compassion and sensitivity towards community needs.

In recognition of these expectations as Councillors, we will:

- endeavour to make decisions solely in the public interest and on the basis of merit;
- endeavour to ensure decisions will never improperly confer advantage or disadvantage to any person or organisation;
- not place ourselves in circumstances where financial or other obligations to other persons or organisations may unduly influence decisions and actions;
- be open and transparent about personal interests that would influence, or could reasonably be perceived to influence, decisions and actions we take as a Councillor;
- be accountable to the community for decisions and actions and, wherever possible, be open and transparent about the reasons for decisions and report results, without disclosing confidential information;
- exercise due care and diligence in the performance of our duties and submit to whatever lawful scrutiny is appropriate to the office of Councillor;
- act honestly in the performance of our duties, avoiding words and actions that are intended to mislead or deceive Councillors, Council staff or persons having dealings with Council;
- treat all people with due courtesy and respect, not discriminating improperly against any person, and respecting the impartiality and integrity of fellow Councillors and Council staff;
- ensure public resources are used prudently in the public interest;
- uphold all laws and act in accordance with the trust that the community is entitled to place in our public and private capacities; and
- support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the Council, Councillors and Council staff.

ROLE OF COUNCILLORS

The role of a Councillor is addressed in section 28 of the Act and requires Councillors to:

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

When 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 Mayor;
- d) act lawfully and in accordance with the oath or affirmation of office;
- e) act in accordance with the standards of conduct; and
- 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 Chief Executive Officer (CEO).

THE ROLE OF MAYOR

The role of Mayor includes the obligation 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.

In addition, 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; and
- c) require the CEO to report to the Council on the implementation of a Council decision.

STANDARDS OF CONDUCT

The Act and Regulations place obligations on Councillors in the way they are required to conduct themselves when performing the role of Councillor.

The following Standards of Conduct are prescribed by the Regulations and must be complied with by all Councillors.

1. Treatment of Others

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

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

2. Performing the role of Councillor

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

- a) undertakes any training or professional development activities the Council decides is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- c) is fit to consciously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and

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

3. Compliance with good governance measures

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

- a) any policy, practice or protocol developed and implemented by the CEO in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act; and
- d) any directions of the Minister under section 175 of the Act.

4. Councillor must not discredit or mislead Council or public

- 1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
- 2) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

5. Standards do not limit robust debate

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

BEHAVIOURS AND VALUES

As Councillors, we confirm that we will adhere to the following behaviours in our general conduct:

- Treating all people with courtesy and respect, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. This includes:
 - Treating members of the community with dignity and ensuring that neither offence nor embarrassment are caused;
 - Treating fellow Councillors with respect, even when disagreeing with their views or decisions;
 - Debating contentious issues without resorting to personal acrimony or insult;
 - Ensuring our punctual attendance at Council, Assembly of Council and Committee Meetings; and
 - Acting with courtesy towards Council Staff and avoiding intimidating behaviour.
- Always acting with integrity and honesty which means:
 - Being honest in all dealings with the community, with other Councillors and with Council Staff;
 - Acting with impartiality and in the best interests of the community as a whole;
 - Not acting in ways that may damage the Council or its ability to exercise good governance;
 - Exercising reasonable care and diligence in performing our functions as Councillors; and
 - Complying with all relevant Federal or State law or the Council's Local Laws and Council Policies.
- Recognising that we hold a position of trust which we will not misuse or from which we will derive undue benefit. As such:
 - We will avoid conflicts of interest and comply with the relevant provisions of the Act and this Code of Conduct relating to interests and conflicts of interest; and
 - We will not exercise undue influence on other Councillors, members of Council Staff or members of the public to gain or attempt to gain an advantage for ourselves, our family or friends.
- Recognising that we are leaders in our community and that we need to:
 - Maintain proper standards of decorum and dress as well as a high standard of public demeanour at all times, particularly at meetings and public functions;
 - Strive to ensure that our ethical and moral standards are not in any way compromised through our dealings with the public and each other; and
 - Observe the requirements of this Code, as we would for this Council, when we as Councillors are appointed as representatives of the Council to other bodies and are carrying out our duties on that body.

RELATIONSHIPS WITH COUNCIL STAFF

As Councillors, we will work as part of the Council team with the CEO and other members of Council staff.

We recognise there needs to be mutual respect and understanding between Councillors and Council staff in relation to their respective roles, functions and responsibilities.

Councillors are aware of the requirements of section 123 and section 124 of the Act and must not misuse their position or seek to improperly direct or influence Council staff in the exercise of their duties, or attempt to do so.

DECISION MAKING

As Councillors, we are committed to making all decisions impartially and in the best interests of the whole community. We acknowledge effective decision making is vital to the democratic process and an essential component of good governance. As Councillors we will:

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

CONFLICT OF INTEREST PROCEDURES

For the purpose of this Code, 'general conflict of interest' and 'material conflict of interest' have the meanings specified in the Act.

As Councillors we are committed to making all decisions impartially and in the best interests of the municipal community. We recognise the importance of fully observing the requirements of the Act in regard to the disclosure of conflicts of interest.

We will comply with all the provisions of the Act in regard to conflicts of interest. Therefore,

- if a Councillor considers that he or she has a general conflict of interest or material conflict of interest in a matter before the Council, a delegated committee, a community asset committee or a Councillor briefing, they have a conflict of interest;
- if a Councillor has a conflict of interest in a matter, he or she will comply with the requirements of the Act and ensure that the class and nature of the interest is disclosed. He or she will leave the room in which the meeting or briefing is being held during any discussion, debate or vote on the matter; and
- if a Councillor has a general interest or material interest in a matter to be considered by the Council or delegated committee or community asset committee which is not a conflict of interest, and he or she considers that their personal interest may be in conflict with their public duty to act impartially and in the interest of the whole community, the Councillor will declare a conflicting personal interest under section 130 of the Act immediately before the matter is considered at the relevant meeting and apply to the Council or delegated committee or community asset committee to be exempted from voting on the matter.

In addition to the requirements of the Act, as Councillors we will:

- give early consideration to each matter to be considered by the Council, Councillor briefing, delegated committee or community asset committee to which we belong to ascertain if we have a Conflict of Interest;

- recognise that the legal onus to determine whether a conflict of interest exists rests entirely with each individual Councillor and that Council staff cannot offer any advice in relation to potential conflicts. If we cannot confidently say that we do not have a conflict of interest, we will declare a conflict of interest and comply with the relevant requirements as if we had a conflict of interest; and
- notify the Mayor or the delegated committee chair or the community asset committee chair as soon as possible if we consider that we may be unable to vote on a matter because of a conflict of interest, (depending on whether the matter is to be considered by the Council, a delegated committee or community asset committee, as well as the CEO.

As Councillors, we need to be alert to the fact that it is not just our direct or indirect interests which could be a conflict in our role, but the direct and indirect interests of our family and members of our households. Section 126 of the Act lists the extent of family and household members whose interests need to be considered in determining our own and the action that we need to take.

We need to be vigilant in assessing our interests and the disclosure of them where they interfere with the ability act as a Councillor. The expansive definition of 'family member' in the Act means the "if in doubt, get out" approach is no longer suitable. It means to avoid conflict of interest situations we should step away from being involved in any matter if there is even a remote possibility a person could establish a link to the proposal and a member of our family.

The Act describes a number of interests that will lead to a conflict of interest. We understand we are defined as a 'relevant person' for certain purposes of the Act and the application of the provisions which clarify what a conflict of interest may be.

CONFIDENTIALITY

As Councillors we acknowledge we will comply with our obligations under section 125 of the Act in relation to confidential briefings or information (as defined under the Act) and recognise this obligation extends to ensuring safekeeping of confidential information and will not disclose commercial-in-confidence or proprietary information unless legally required to do so.

ACCESS TO AND USE OF INFORMATION

As Councillors we will have access to information that may at times be confidential or controversial. Consequently as Councillors, we will:

- not use information gained by virtue of our position as a Councillor for any purpose than to exercise our role as a Councillor;
 - ensure information of a confidential nature is not communicated until it is no longer treated as confidential;
 - be aware information relating to decisions of the Council is to only be communicated in an official capacity by a designated officer of the Council;
 - be careful that information concerning adopted policies, procedures and decisions of the Council is conveyed accurately;
 - be aware we are only entitled to access information which is relevant to a matter before the Council;
 - be prudent in the use of information that we acquire in our role as a Councillor;
 - be aware of any specific policies that the Council has adopted regarding use of Council information;
 - be careful that information is not used in a way that can cause detriment to the Council;
 - be aware unauthorised disclosure of Council information, including misuse of intellectual property must not occur; and
 - be cognizant the requirements of the *Privacy and Data Protection Act 2014* regarding access, use and release of personal information apply equally to Councillors and Council staff as individuals.
- do not use Council resources (including the services of Council staff) for private purposes unless properly authorised to do so and appropriate payments are made (as determined by the CEO or the Council);
 - do not use public funds or resources in a manner that is improper or unauthorised;
 - use those resources effectively and economically; and
 - maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role.

Where a motor vehicle, electronic communication (email, fax and internet) or mobile telephone are supplied to us we are obligated, by virtue of accepting and continuing to accept those resources, to comply with the Council's policies for allocation and use of this equipment.

PUBLIC COMMENT

Councillors, have a primary responsibility to be responsive to community views and to adequately communicate the attitudes and decisions of Council.

There may be times when an individual Councillor disagrees with a majority decision of Council and want to advise the community. As individual Councillors, we are entitled to express our own independent views. In doing so, a Councillor must not reflect negatively on the Council as a whole or an individual Councillor. Furthermore:

- we recognise that the Mayor and the CEO are the designated persons authorised to speak to the media and others formally on behalf of the Council unless the Mayor delegates this to another Councillor for a specific purpose;
- we will not make allegations, which are personally offensive or derogatory; and
- we will treat all matters on their individual merits with an aim for consistency in decision making.

USE OF COUNCIL RESOURCES

The resources of the Council entrusted to Councillors are limited.

As Councillors we recognise we are provided with resources to help carry out their roles and functions. Therefore we, as Councillors, need to make sure we:

- are scrupulously honest in our use of Council facilities, funds, staff and equipment and must not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;

CRITICISM AND COMPLAINTS

As Councillors, we will not criticise or Council in public or in private conversations with members of the community.

In circumstances where members of the public convey complaints about Council staff directly to a Councillor, the Councillor will promptly refer the matter to the CEO.

DISPUTE RESOLUTION PROCEDURES

Before commencing any dispute resolution process, the Councillors who are parties to a dispute, with the assistance of the Mayor or Deputy Mayor, are expected to use their best endeavours to resolve the matter in an informal mediation in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the municipal community.

After these endeavours have been exhausted, if the matter still remains unresolved, the parties may refer the matter externally for resolution.

The internal arbitration process under section 141 of the Act will apply to any matters alleged to have breached the Councillor standards of conduct.

ROLE OF A COUNCILLOR CONDUCT OFFICER

The CEO must appoint a member of Council staff to perform the role of Councillor Conduct Officer.

The Councillor Conduct Officer must:

- a) assist the Council in the implementation of, and conduct of, the internal arbitration process of a Council;
- b) assist the Principal Councillor Conduct Registrar to perform the functions specified in section 149(1); and
- c) assist the Principal Councillor Conduct Registrar in relation to any request for information under section 149(3).

BY AN ARBITER

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 a Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month;
- c) direct that the Councillor to 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; or
- e) direct a Councillor to attend or undergo training or counselling specified by the arbiter.

COUNCILLOR CONDUCT PANELS | SERIOUS MISCONDUCT

Council or any individual Councillor may apply to the Principal Councillor Conduct Registrar for a Councillor Conduct Panel to consider an allegation of serious misconduct by a Councillor in accordance with sections 153-170 of the Act.

The term **serious misconduct** means any of the following—

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

SANCTIONS WHICH MAY BE IMPOSED BY AN ARBITER | SERIOUS MISCONDUCT

If a Councillor Conduct Panel makes a finding of serious misconduct against a Councillor, the Councillor Conduct Panel may do any one or more of the following—

- a) reprimand the Councillor;
- b) direct the Councillor to make an apology in a form or manner determined by the Councillor Conduct Panel;
- c) suspend the Councillor from office for a period specified by the Councillor Conduct Panel not exceeding 12 months; or
- d) direct that the Councillor is ineligible to chair a delegated committee of the Council for a period specified by the Councillor Conduct Panel not exceeding the remainder of the Council's term.



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