

### 7.3.3 MONASH INTERNAL RESOLUTION PROCEDURE

<b>Responsible Manager:</b>	Amanda Sapolu, Manager Corporate Governance & Legal
<b>Responsible Director:</b>	Simone Wickes, Director Corporate Services

#### RECOMMENDATION

##### That Council

1. **Notes the Model Code of Conduct as prescribed in Schedule 1 to the *Local Government (Governance and Integrity) Regulations 2020***
2. **Adopts the Internal Dispute Resolution Procedure as required by Schedule 1A(1) of the *Local Government (Governance and Integrity) Regulations 2020*, and**
3. **Makes both documents available on Council’s public website.**

#### INTRODUCTION

This report outlines the need for and benefits of adopting an Internal Resolution Procedure (Procedure) and seeks Council's approval to adopt this Procedure. The Procedure aims to provide a structured and transparent process for resolving internal disputes, ensuring fairness and consistency.

#### COUNCIL PLAN STRATEGIC OBJECTIVES

##### Good Governance

Maintain the highest standards of good governance.

#### BACKGROUND

Local government in Victoria has undergone significant reforms, notably the Governance and Integrity Amendments, which introduced a Model Code of Conduct now embedded in legislation. This mandates councils to adopt an Internal Resolution Procedure. Monash City Council's current dispute resolution process, embedded in the old Councillor Code of Conduct, will be superseded by the proposed Procedure. Drafted by Maddocks Lawyers, the new Procedure is widely accepted in the industry and provides a clear framework for resolution.

#### DISCUSSION

The proposed Procedure offers a more formal and structured approach compared to the current process, ensuring consistency and compliance while encouraging participation and collaboration. Key differences between the current and proposed procedures include:

- **Structure:** The current process has three phases, while the new Procedure has two formal stages.
- **Phases:** The new Procedure begins with a conversation between the two parties, followed by a formal conciliation process led by the Mayor.

- Scope: The new Procedure continues to allow for internal mediation conducted by an external mediator, if necessary. Participation is encouraged in all stages of the new Procedure and documentation is emphasised.

Adopting the proposed Procedure ensures legislative compliance and fosters a collaborative resolution setting.

### **FINANCIAL IMPLICATIONS**

There are no financial implications to this report. However, it aims to reduce potential legal costs involved in mediation by providing a clear and structured framework for resolving internal disputes.

### **POLICY IMPLICATIONS**

There are no policy implications to this report.

### **CONSULTATION**

Community consultation was not required.

### **SOCIAL IMPLICATIONS**

There are no social implications to this report.

### **HUMAN RIGHTS CONSIDERATIONS**

There are no human rights implications to this report.

### **GENDER IMPACT ASSESSMENT**

A GIA was not completed because this agenda item is not a 'policy', 'program' or 'service'.

### **CONCLUSION**

Adopting an Internal Resolution Procedure is a legislative requirement and a step towards strengthening Councillor culture of working together. By providing a clear and consistent framework for resolving internal disputes, we can ensure fairness, transparency, and improved outcomes for Council and the community.

### **ATTACHMENT LIST**

1. Model- Councillor- Code-of- Conduct [7.3.3.1 - 5 pages]
2. Monash Councillor Internal Resolution Procedure 2025 [7.3.3.2 - 9 pages]



Government  
Services

# Model Councillor Code of Conduct

Local Government (Governance and Integrity) Amendment  
Regulations 2024

# Model Councillor Code of Conduct

Schedule 1 of the Local Government (Governance and Integrity) Amendment Regulations 2024

## Definitions

In this Schedule—

**discrimination** means unfair or unfavourable treatment of a person on the grounds of an attribute specified in section 6 of the **Equal Opportunity Act 2010**.

## Standards of Conduct

### 1. Performing the role of a Councillor

A Councillor must do everything reasonably necessary to ensure that they perform the role of a Councillor effectively and responsibly, including by—

- (a) representing the interests of the municipal community by considering and being responsive to the diversity of interests and needs of the municipal community; and
- (b) being fit to perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (c) diligently using Council processes to become informed about matters which are subject to Council decisions; and
- (d) not performing or purporting to perform any responsibilities or functions of the Chief Executive Officer; and
- (e) acknowledging and supporting the Mayor in the performance of the role of the Mayor, including by—
  - (i) respecting and complying with a ruling of the Mayor as the chair of Council meetings (unless dissenting from the ruling in accordance with the Council's Governance Rules); and
  - (ii) refraining from making public comment, including to the media, that could reasonably be perceived to be an official comment on behalf of the Council where the Councillor has not been authorised by the Mayor to make such a comment.

### 2. Behaviours

- (1) A Councillor must treat others, including other Councillors, members of Council staff and members of the public, with dignity, fairness, objectivity, *courtesy and respect*, including by—

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- (a) not engaging in demeaning, abusive, obscene or threatening behaviour, including where the behaviour is of a sexual nature; and
  - (b) not engaging in behaviour that intentionally causes or perpetuates stigma, stereotyping, prejudice or aggression against a person or class of persons; and
  - (c) not engaging in discrimination or vilification; and
  - (d) supporting the Council, when applying the Council's community engagement policy, to develop respectful relationships and partnerships with Traditional Owners, Aboriginal community controlled organisations and the Aboriginal community; and
  - (e) supporting the Council in fulfilling its obligation under the Act or any other Act (including the **Gender Equality Act 2020**) to achieve and promote gender equality; and
  - (f) ensuring their behaviours and interactions with children are in line with the Council's policies and procedures as a child safe organisation and obligations under the **Child Wellbeing and Safety Act 2005** to the extent that they apply to Councillors.
- (2) A Councillor, as an individual at the workplace, must take reasonable care for their own health and safety and take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons by—
- (a) adhering to applicable systems and policies put in place by the Chief Executive Officer to manage risks to health and safety in the workplace; and
  - (b) complying, so far as the Councillor is reasonably able, with any reasonable instruction that is given by the Chief Executive Officer to manage risks to health and safety.
- (3) A Councillor must act in accordance with any policies, practices and protocols developed and implemented under section 46 of the Act that support arrangements for interactions between members of Council staff and Councillors.

### **3. Good governance**

A Councillor must comply with the following Council policies and procedures required for delivering good governance for the benefit and wellbeing of the municipal community—

- (a) the Council's expenses policy adopted and maintained under section 41 of the Act;

- (b) the Council's Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act, including in relation to—
  - (i) conduct in Council meetings or meetings of delegated committees; and
  - (ii) requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication; and
  - (iii) the Council's election period policy included in the Council's Governance Rules under section 69 of the Act, including in ensuring that Council resources are not used in a way that is intended to influence, or is likely to influence, voting at a general election or by-election;
- (c) the Council's Councillor gift policy adopted under section 138 of the Act;
- (d) any direction of the Minister given under section 175 of the Act.

#### **4. Integrity**

- (1) A Councillor must act with integrity, exercise reasonable care and diligence and take reasonable steps to avoid any action which may diminish the public's trust and confidence in the integrity of local government, including by—
  - (a) ensuring that their behaviour does not bring discredit upon the Council; and
  - (b) not deliberately misleading the Council or the public about any matter related to the performance of their public duties; and
  - (c) not making Council information publicly available where public availability of the information would be contrary to the public interest.

#### **Note**

See the public transparency principles set out in section 58 of the Act.

- (2) A Councillor must not, in their personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), expressly or impliedly request preferential treatment for themselves or a related person or entity.

#### **5. The Model Councillor Code of Conduct does not limit robust public debate**

Nothing in the Model Councillor Code of Conduct is intended to limit, restrict or detract from robust public debate of issues in a democracy.





# Monash Councillor Dispute Resolution

*Corporate Governance and Legal Services*

**OVERVIEW:**

This policy outlines guidelines and procedures for alleged breaches of the Model Councillor Code of Conduct. It is essential for Council to have this policy in place to ensure council resolve conflicts efficiently, fairly, and amicably, ensuring smooth operations and compliance with regulations.

**RESPONSIBILITIES:**

Manager Corporate Governance and Legal for the corporate implementation, review, and interpretation of this policy.

**RELATED DOCUMENTS:**

Local Government Act 2020  
Model Councillor Code of Conduct

**REVIEW BY:**

Coordinator Governance

**APPROVED BY:**

\_\_\_\_\_  
Council

**DATE:**

[insert date adopted]

**POLICY REF:**

[insert reference number]

**ISSUE NO:**

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**REVIEW DATE:**

2028

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## Contents

1. Purpose.....	3
2. Internal Resolution Procedure.....	3
3. First Stage of Internal Resolution Procedure – Discussion .....	3
4. Second Stage of Internal Resolution Procedure – Conciliation.....	4
4.1. Initiating conciliation.....	4
4.2. Participating in conciliation .....	4
4.3. Conduct of conciliation .....	4
4.4. Roles and responsibilities .....	5
4.5. Support from Council.....	5
4.6. End or termination of conciliation.....	5
4.7. Confidentiality .....	6
4.8. Record of outcome.....	6
5. External Mediation .....	6
6. Internal Resolution Procedure does not Apply in these Circumstances .....	7
7. Formal Dispute Resolution Procedure.....	7



## 1. Purpose

This Internal Resolution Procedure (**Procedure**) is adopted under and in accordance with section 140 of the *Local Government Act 2020 (Act)* and regulation 12A of the *Local Government (Governance and Integrity) Regulations 2020*.

This Procedure will be observed when dealing with alleged breaches of the Model Councillor Code of Conduct.

## 2. Internal Resolution Procedure

Disputes between Councillors may arise in a variety of circumstances. This Procedure is to apply to those disputes in which one Councillor (**the Complainant**) alleges that another Councillor (**the Respondent**) has breached the Model Councillor Code of Conduct.

This Procedure provides both parties to a dispute with support and encouragement to resolve the dispute in a manner that enables the Councillors to move forward and maintain effective working relationships.

This Procedure is designed to minimise cost and disruption of disputes to Council and individual Councillors and, where possible, avoid disputes escalating and becoming the subject of an internal arbitration.

It is acknowledged that this Procedure will not be suitable for resolution of all disputes between Councillors.

An overview of the Procedure is annexed, in the form of a flowchart.

## 3. First Stage of Internal Resolution Procedure – Discussion

A Complainant is encouraged to raise their issue directly with the Respondent in a respectful and courteous manner, either in person or in writing, where they feel comfortable to do so.

Councillors are encouraged to recognise that:

- (a) certain behaviours and communications may be perceived by others to be causing issues or offence that may not have been intended;
- (b) it can provide useful insight to reflect on their own behaviour or motivation and possible contribution to the dispute, whether intended or not; and
- (c) dealing with the dispute early is more likely to avoid the issue escalating and resolve it before it threatens the effective operation of Council.

It is useful to frame any issue from the Councillor's perspective (eg "I felt disrespected when you said / did ..."), rather than accusing another person of holding a particular position or taking a negative action



deliberately. A Councillor should let the other Councillor know how they feel and ask for an explanation, rather than making accusations or assumptions.

## 4. Second Stage of Internal Resolution Procedure – Conciliation

Where a direct conversation between Councillors has not been successful in resolving the dispute, or a Councillor does not feel comfortable communicating directly with another Councillor, the second stage of this Procedure is conciliation.

### 4.1. Initiating conciliation

A Complainant initiating conciliation must notify the Mayor and the Respondent of the dispute by completing a **Conciliation Application Form**. That form (see Attachment 1 to this Procedure) must:

- (a) specify the names of the Complainant and Respondent;
- (b) specify the provision (or provisions) of the Model Councillor Code of Conduct alleged to have been breached;
- (c) detail what was said or done by the Respondent to constitute a breach of the Model Councillor Code of Conduct;
- (d) attach any supporting information to provide examples of the behaviour complained of (eg screenshots or emails); and
- (e) be dated and signed by the Complainant.

### 4.2. Participating in conciliation

Councillors are not obliged to engage in conciliation but should only decline to participate if they honestly and reasonably believe that their participation would adversely affect their health or wellbeing or would otherwise be unsafe.

A Respondent declining to participate in the conciliation must advise the Complainant and the Mayor of their unwillingness to participate, and the reasons for it. That advice must be provided no more than one week after receiving the Conciliation Application Form.

### 4.3. Conduct of conciliation

Conciliation is to be conducted by the Mayor except when the Mayor is a party to the dispute or otherwise unavailable to conduct conciliation. In that case the Deputy Mayor will assume the role of the Mayor in the conciliation process. If both the Mayor and the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct the conciliation, the role of the Mayor must be performed by a Councillor jointly chosen for the purpose by the parties.



When, in this Procedure, reference is made to the Mayor it includes:

- (a) the Deputy Mayor; and
- (b) a Councillor jointly chosen for the purpose by the parties,

when the Mayor and/or the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct a conciliation.

#### **4.4. Roles and responsibilities**

The role of the Mayor is to provide guidance to the parties to the dispute about the Standards of Conduct in the Model Councillor Code of Conduct, and actively explore whether the dispute can be resolved by agreement between them.

The role of the Complainant and Respondent is to explain their respective positions and, in a show of goodwill, actively explore the possibility of resolving the dispute by agreement.

All Councillors are responsible for conducting themselves in a courteous and respectful manner at all times during the conciliation.

The role of the Councillor Conduct Officer is to provide the Mayor with the administrative support necessary to arrange and conduct the conciliation.

#### **4.5. Support from Council**

Council, through the Councillor Conduct Officer, will provide administrative assistance to the Mayor when arranging a time and place for conciliation, including any technical assistance that may be required. Council will make a venue available to the Councillors within Council's offices that is private and suited to the conciliation process.

Council will not provide any substantive guidance or advice about the subject matter of the dispute, or pay the costs of legal advice or representation for any Councillor in connection with this Procedure. Parties to a dispute may seek their own legal or other advice at their own cost, if they choose to do so.

#### **4.6. End or termination of conciliation**

Conciliation will end or be terminated if any of the following occurs:

- (c) the parties cannot jointly choose a Councillor to conduct the conciliation within one week of being asked to do so;
- (d) the Respondent notifies the Mayor that they do not wish to participate in conciliation, and the reasons for it, within one week of receiving the Conciliation Application Form;



- (e) the Respondent does not respond to the Conciliation Application Form at all within two weeks of receiving it;
- (f) conciliation has not occurred within four weeks of the Complainant submitting the Conciliation Application Form;
- (g) conciliation has occurred and the parties have been unable to resolve the dispute; or
- (h) the dispute has been resolved.

The time for conciliation may be extended by agreement between the parties to the dispute, whether or not the matter has been escalated to one of the formal dispute resolution procedures outlined in the Act.

#### **4.7. Confidentiality**

Parties and other participants are expected to maintain confidentiality concerning the dispute and the operation of this Procedure.

#### **4.8. Record of outcome**

The Mayor must document any agreement that is reached between the Complainant and Respondent. The agreement must be signed by the Complainant, Respondent and Mayor. Copies must be provided to the Complainant and Respondent, and the original must be retained by the Mayor. Again, parties and the Mayor are expected to maintain the confidentiality of the agreement reached.

### **5. External Mediation**

- a) Notwithstanding the availability of other processes to resolve disputes under this Internal Resolution Process, if at any time a Complainant, a Respondent or the Mayor feels that the dispute will be better addressed through an external mediator, then they can make that request in writing of the Mayor, or in the case of the Mayor, the CEO for an external mediation (external mediation).
- b) At the time the request is made, notice should also be provided to the other parties, by the requesting Councillor.
- c) If all parties agree to an external mediation, then the Mayor or the CEO will ask the Councillor Conduct Officer to facilitate an external mediator to conduct the mediation at the earliest practicable opportunity.
- d) The mediator will document any agreement reached at the end of the external mediation, with copies provided to all parties.



## **6. Internal Resolution Procedure does not Apply in these Circumstances**

The following disputes are not covered by this Procedure:

- (a) differences between Councillors in relation to policy or decision making, which are appropriately resolved through discussion and voting in Council meetings;
- (b) complaints made against a Councillor or Councillors by a member or members of Council staff, or by any other external person;
- (c) allegations of sexual harassment;
- (d) disclosures made about a Councillor under the *Public Interest Disclosures Act 2012*, which can only be made to the Independent Broad-based Anti-corruption Commission; and
- (e) allegations of criminal misconduct, which should be immediately referred to Victoria Police or the relevant integrity authority.

## **7. Formal Dispute Resolution Procedure**

This Procedure operates alongside, and does not replace, the formal dispute resolution procedures outlined in the Act.

The formal dispute resolution procedure applies to misconduct, serious misconduct and gross misconduct.

Section 141 of the Act provides for an internal arbitration process concerning a breach of the Standards of Conduct set out in the Model Councillor Code of Conduct.




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## Attachment 1 Conciliation Application Form

<b>Complainant:</b>	
<b>Respondent:</b>	
<b>Provisions of Model Councillor Code of Conduct breached:</b>	
<b>Action constituting breach:</b>  (Include dates, times and detailed descriptions of the action complained of. Attach further documents as necessary.)	

Signed by ..... )  
 )  
 )  
 on ..... )



**Annexure**

**INTERNAL RESOLUTION PROCEDURE FLOWCHART**

