

▶ COUNCILLOR CODE OF CONDUCT

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RESPONSIBLE OFFICER:	Chief Executive Officer
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Version Number	Adoption Date	Description of Change
1.0	17 February 2017	Initial release
1.1	19 November 2020	Resigning following election of the 2020-2024 Council
1.2	23 February 2021	Full review and revision, inclusion of new legislation, provisions and template. Signing of 2020-2024 Council to the Code.

CONTENTS

1. Introduction.....	5
1.1. Purpose and Commitment	5
1.2. Legislative context	6
1.3. Scope	7
1.4. Council relates Policies and Procedures.....	7
1.5. Failure to Comply.....	7
2. DEFINITIONS	8
3. GOVERNING PRINCIPLES	12
3.1. Governance Principles	12
3.2. Supporting Principles.....	13
3.2.1. Community engagement principles	13
3.2.2. Public Transparency Principles.....	13
3.2.3. Strategic Planning Principles	13
3.2.4. Financial management principles	14
3.2.5. Service Performance Principles.....	14
4. ROLES AND RESPONSIBILITIES.....	15
4.1. Councillor / Organisational Relationships	15
4.2. Role of a Councillor.....	16
4.3. Role of the Mayor	18
4.4. Role of the Deputy Mayor	20
4.5. Role of the Chief Executive Officer.....	20
4.6. Councillor Values and Behaviour.....	20
5. COUNCILLOR CONDUCT STANDARDS (STANDARDS OF CONDUCT)	22
5.1. Treatment of others	22
5.2. Performing the role of Councillor.....	22

► COUNCILLOR CODE OF CONDUCT

5.3.	Compliance with good governance measure	23
5.4.	Councillor must not discredit or mislead Council or public	24
5.5.	Standards do not limit robust political debate.....	24
6.	SPECIFIC COUNCILLOR CONDUCT OBLIGATIONS	25
6.1.	Decision making and communication	25
6.1.1.	Personal dealings with Council.....	26
6.2.	Use of Council Information.....	26
6.3.	Social Media and communications.....	26
6.3.1.	Media releases	26
6.3.2.	Public Comment	27
6.4.	Binding caucus votes	27
6.5.	Gifts, Benefits and Hospitality	28
6.6.	Conflicts of Interest	28
6.7.	Use of Council Resources	29
6.8.	Council Planning Process / meeting planning permit applicants	29
6.9.	Interactions with Children and Young People.....	30
6.10.	Elections / Political Activity.....	30
6.10.1.	State and Federal Elections	30
6.11.	Reporting unethical behaviour/Fraud and Corruption.....	31
6.12.	Human Rights, Equal Opportunity & Gender Equality	31
6.12.1.	Gender Equality	32
6.12.2.	Harassment and Sexual Harassment.....	32
6.12.3.	Bullying, vilification, and victimisation	32
6.13.	Occupational health and Safety.....	33
7.	IMPROPER CONDUCT	34
7.1.	Misuse of position	34
7.2.	Directing a member of Council staff.....	35

► COUNCILLOR CODE OF CONDUCT

7.3. Confidential information	35
8. DISPUTE RESOLUTION	37
8.1. Informal Self Resolution	39
8.2. Mayoral Negotiation.....	39
8.2.1. Dispute between Councillor(s) and the Mayor	40
8.3. External Mediation	40
9. BREACHES OF THE PRESCRIBED STANDARDS OF CONDUCT	42
9.1. Application for an internal arbitration process	42
9.1.1. Principal Councillor Conduct Registrar must examine application.....	42
9.1.2. Arbiter must refer certain applications.....	44
9.1.3. Sanctions that may be imposed by an arbiter on finding misconduct	44
9.1.4. No applications to be made during the Election Period	45
9.2. Request for Councillor Conduct Panel.....	45
10. Councillor Commitment to the Councillor Code of Conduct	47
11. Relevant Legislation	49

1. INTRODUCTION

As custodians of the Hepburn Shire Council, Councillors hold a unique and important role within Victoria. They have been democratically elected to provide leadership for the peace, order and good governance of the municipality and the local community as recognised in the *Local Government Act 2020* (The Act).

The Act describes how the Council will be accountable in the performance of its functions, the exercise of expected standards of conduct and behaviour and use of resources.

The Hepburn Shire Community expects Council to provide fair, accurate, and unbiased advice and to act responsively, transparently and to manage assets efficiently. To assist meeting these expectations, section **139 of the *Local Government Act 2020*** requires all councils to adopt a code of conduct that is to be observed by Councillors.

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

Accordingly, Hepburn shire Council operates under two codes of conduct – one for Councillors and one for members of Council Staff. The two codes are clearly linked, with common principles, but they distinguish the expectations of Councillors as elected representatives, from those of staff who are employees of the Council.

This Councillor Code of Conduct was adopted by the Hepburn Shire Council on 23 February 2020.

This Councillor Code of Conduct replaces the previous Councillor Code of Conduct adopted on 17 February 2017 which remained in force until the review was undertaken, and adopted by a formal resolution of Council.

1.1. PURPOSE AND COMMITMENT

Good governance is fundamental to the achievement of Council's objectives. The purpose of this Code is to set out the principles, values, standards and behaviours that will guide Council collectively and the Councillors individually in understanding their duties and obligations as set out in the *Local Government Act 2020* and associated regulations and legislation.

Primarily, this Code:

- Sets standards of conduct expected of Councillors in order to ensure that good governance and increase public confidence in the administration of Council and

► COUNCILLOR CODE OF CONDUCT

integrity of local government is achieved and prohibits discrimination, harassment (including sexual harassment) and vilification.

- Endeavours to foster good working relationships between Councillors to enable Councillors to work constructively together in the best interests of the local community;
- Details governing principles to guide the Councillors in their duties and functions;
- Details roles and responsibilities of Councillors;
- Provides a dispute resolution process;
- And details breaches of the Councillor Code of Conduct.

This Code of Conduct includes obligations regarding child safety and gender equality, diversity and inclusiveness.

By signing this document at the end, Councillors are committed to the Standards of Conduct outlined in this Code.

1.2. LEGISLATIVE CONTEXT

Division 5 Section 139 of the *Local Government Act 2020* (the Act) requires Council to develop a Councillor Code of Conduct.

Council must review and adopt the Councillor Code of Conduct within four (4) months after a general election. The last general election was held on 24 October 2020.

This Code of Conduct has been developed by Council to comply with the requirements of the Act and supporting Regulations (*the Local Government Governance and Integrity Regulations 2020*).

A Councillor Code of Conduct must include:

- a) the standards of conduct prescribed by the regulations expected to be observed by Councillors, and
- b) any provisions prescribed by the regulations for the purpose of section 139 of the Act, and
- c) provisions addressing any matters prescribed by the regulations for the purpose of this section, and
- d) any other matters which the Council considers appropriate, other than any other standards of Conduct.

This Code adopts and incorporates the current and relevant Councillor protocols, policies and procedures and other documents, as amended from time to time, which are set out at the start of this Policy that are in effect at the time of adoption of this Code.

► COUNCILLOR CODE OF CONDUCT

By agreeing to this Code, Councillors are expressly agreeing to adhere to the policies in Appendix 1 as agreed by Council at that time, and any other Council adopted policy or protocol adopted thereafter that relates to Councillors.

The Code should be read alongside other key strategic Council documents, including the 4 year Council Plan, 10 year Council Vision, other Council policies, protocols, Council's local laws and rules, as applicable, which all form part of the governance framework of Hepburn Shire Council.

1.3. SCOPE

The Councillor Code of Conduct applies to the seven (7) Councillors of the Hepburn Shire Council.

For the purposes of this Code, the term "Councillors" includes the Mayor, Deputy Mayor and all other Councillors of Council.

This Code does not apply to the members of Council staff, who are governed by the Employee Code of Conduct.

1.4. COUNCIL RELATES POLICIES AND PROCEDURES

- Council Expenses and Resources Policy
- Councillor Staff Relationship Policy
- Respectful Relationships Policy
- Fraud Prevention Policy
- Child Safe Policy
- Public Interest Disclosure Procedures for Hepburn Shire Council
- Our Commitment to the Human Rights Charter
- Procurement Policy
- Privacy Policy
- The Guidance Document – Mayor of the Hepburn Shire Council
- The Hepburn Shire Council Governance Rules
- The Hepburn Shire Council Public Transparency Policy

1.5. FAILURE TO COMPLY

Failure of a Councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of actions and penalties that may be imposed on Councillors for misconduct, including suspension from civic office.

► COUNCILLOR CODE OF CONDUCT

2. DEFINITIONS

The following terms are referred to in the Code.

Term	Definition
Acting Chief Executive Officer	Where there is a vacancy in the office of the Chief Executive Officer or the Chief Executive Officer is unable to perform the duties of the Chief Executive Officer, the Council appointed Acting Chief Executive Officer in accordance with section 44(4) of the <i>Local Government Act 2020</i> . The terminology of Acting Chief Executive officer is also used interchangeably with interim Chief Executive Officer as determined from time to time by Council resolution.
Chief Executive Officer	The Chief Executive Officer as appointed by Council in accordance with section 44 of the <i>Local Government Act 2020</i> .
Chief Municipal Inspector	The Chief Municipal Inspector is responsible for investigating and prosecuting possible breaches and offences under the Local Government Act 2020, investigating allegations of Councillor misconduct, serious misconduct and gross misconduct, making an application for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor and making an application to the Victorian Civil and Administrative Tribunal for a finding of gross misconduct by a Councillor.
Conflicts of interest	Councillor has; <ul style="list-style-type: none"> - a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty - a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.
Council	Hepburn Shire Council
Councillor Conduct Panel	means a panel formed by the Principal Councillor Conduct Registrar under section 156 of the <i>Local Government Act</i> .

► COUNCILLOR CODE OF CONDUCT

Term	Definition
Councillors	Elected representatives of Hepburn Shire Council
Governance Rules	Council's Governance Rules as adopted in accordance with section 60 of the <i>Local Government Act 2020</i> .
Gross misconduct	Behaviour that demonstrates that a Councillor – a) is not of good character, or is otherwise not a fit and proper person to hold the office of Councillor, including behaviour that is sexual harassment and that is of an egregious nature.
Informal meetings of Councillors	A informal meeting of Councillors is defined in Council's Governance Rules as being: A meeting of Councillors that – Is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors; Is attended by at least one member of Council staff; AND Is not a Council meeting of, delegated committee meeting or community asset committee meeting.
Internal arbitration process	means the internal arbitration process of a Council under section 141
Members of Council staff	Appointed by the Chief Executive Officer in accordance with section 48 of the <i>Local Government Act 2020</i> to enable the functions of Council under the <i>Local Government Act 2020</i> or any other Act to be performed.
Misconduct	Any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct.
Overarching governance principles and supporting principles	means the principles specified in section 9 of the <i>Local Government Act 2020</i> .

► COUNCILLOR CODE OF CONDUCT

Term	Definition
Principal Conduct Officer	<p>The person appointed in writing by the Chief Executive Officer to be the Councillor Conduct Officer for the Council.</p> <p>The purpose of the Officer is to assist Council in implementing its internal arbitration process.</p> <p>The Hepburn Shire Council Councillor Conduct Officer is the Manager Governance and Risk.</p>
Principal Councillor Conduct Registrar	<p>means the person appointed by the Secretary to be the Principal Councillor Conduct Registrar under section 148 of the <i>Local Government Act</i>.</p>
Public transparency principles	<p>means the principles specified in section 58 of the <i>Local Government Act 2020</i>.</p>
Serious misconduct	<p>Means any of the following –</p> <ol style="list-style-type: none"> a) the failure by a Councillor to comply with the Council’s internal arbitration process, b) the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor, c) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel, d) 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, e) bullying by a Councillor of another Councillor or a member of Council staff, f) conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff, g) the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information, h) conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff, i) 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.

Term	Definition
Standards of Conduct	The standards of conduct prescribed under section 139(3)(a) of the Act to be included in a Councillor Code of Conduct and schedule 1 of the <i>Local Government (Governance and Integrity) Regulations 2020</i>
Strategic planning principles	means the principles specified in section 89(2) of the <i>Local Government Act 2020</i> .
The Act	The <i>Local Government Act 2020</i>
The Code	The Councillor Code of Conduct as required to be prepared and adopted in accordance with section 139 of the <i>Local Government Act 2020</i> .

3. GOVERNING PRINCIPLES

The primary role of the Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community. Council must perform its role in accordance with the overarching Governance Principles and supporting principles.**GOVERNANCE PRINCIPLES**

A Council must in the performance of its role give effect to the overarching governance principles.

The following are the overarching governance principles—

- (a) Council decisions are to be made and actions taken in accordance with the relevant law;
- (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (c) the economic, social and environmental sustainability of the municipal district including mitigation and planning for climate change risks, is to be promoted;
- (d) the municipal community is to be engaged in strategic planning and strategic decision making;
- (e) innovation and continuous improvement is to be pursued;
- (f) collaboration with other Councils and Governments and statutory bodies is to be sought;
- (g) the ongoing financial viability of the Council is to be ensured;
- (h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- (i) the transparency of Council decisions, actions and information is to be ensured.

In giving effect to the overarching governance principles, a Council must take into account the following supporting principles—

- (a) the community engagement principles;
- (b) the public transparency principles;
- (c) the strategic planning principles;
- (d) the financial management principles;
- (e) the service performance principles.

3.2. SUPPORTING PRINCIPLES

3.2.1. COMMUNITY ENGAGEMENT PRINCIPLES

The following are the community engagement principles—

- (a) a community engagement process must have a clearly defined objective and scope;
- (b) participants in community engagement must have access to objective, relevant and timely information to inform their participation;
- (c) participants in community engagement must be representative of the persons and groups affected by the matter that is the subject of the community engagement;
- (d) participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement;
- (e) participants in community engagement are informed of the ways in which the community engagement process will influence Council decision making.

3.2.2. PUBLIC TRANSPARENCY PRINCIPLES

The following are the public transparency principles—

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of Local Government Act or any other Act;
- (b) Council information must be publicly available unless—
 - (i) the information is confidential by virtue of the Local Government Act or any other Act; or
 - (ii) public availability of the information would be contrary to the public interest;

3.2.3. STRATEGIC PLANNING PRINCIPLES

A Council must undertake the preparation of its Council Plan and other strategic plans in accordance with the strategic planning principles.

The following are the strategic planning principles—

- a) an integrated approach to planning, monitoring and performance reporting is to be adopted;

▶ COUNCILLOR CODE OF CONDUCT

- b) strategic planning must address the Community Vision;
- c) strategic planning must take into account the resources needed for effective implementation;
- d) strategic planning must identify and address the risks to effective implementation;
- e) strategic planning must provide for ongoing monitoring of progress and regular reviews to identify and address changing circumstances.

3.2.4. FINANCIAL MANAGEMENT PRINCIPLES

The following are the financial management principles –

- a) revenue, expenses, assets, liabilities, investments and financial transactions must be managed in accordance with a Council's financial policies and strategic plans,
- b) financial risks must be monitored and managed prudently having regard to economic circumstances,
- c) financial policies and strategic plans, including the Revenue and Rating Plan, must seek to provide stability and predictability in the financial impact on the municipal community,
- d) accounts and records that explain the financial operations and financial position of the Council must be kept.

3.2.5. SERVICE PERFORMANCE PRINCIPLES

The following are the service performance principles –

- a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community,
- b) services should be accessible to the members of the municipal community for whom the services are intended,
- c) quality and costs standards for services set by the Council should provide good value to the municipal community,
- d) a Council should seek to continuously improve service delivery to the municipal community in response to performance monitoring,
- e) service delivery must include a fair and effective process for considering and responding to complaints about service provision.

4. ROLES AND RESPONSIBILITIES

An understanding and agreement of the different roles within Council helps achieve good governance and respectful relationships.

The primary role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.

4.1. COUNCILLOR / ORGANISATIONAL RELATIONSHIPS

The Hepburn Shire Council consists of democratically elected Councillors (the elected arm) and the organisational / staff (the operational arm).

The interactions between the Councillors and Council staff are detailed in the Councillor Staff Relationship Policy (Policy No. 37 (C)). Any time this Policy is reviewed, amended and adopted, that version becomes the policy position as agreed by Council at that time.

Good governance is dependent on how the relationship between the elected members and the organisation works, as well as mutual respect and understanding between Councillors and members of Council staff in relation to their respective roles, functions and responsibilities.

Councillors need to be aware of their requirements pursuant to section 124 of the *Local Government Act 2020* and must not intentionally direct, or seek to direct, a member of Council staff in the exercise of their duties.

This provision also applies in respect to Officer reports presented to Council and on directing members of Council staff under delegation or as an Authorised Officer.

It is important to note that section 124 of the *Local Government Act 2020* applies to Councillors even when acting in a group outside formal Council or delegated committee meetings such as a confidential councillor briefing meeting (informal meetings of Councillors and previously known as assemblies of councillors).

To achieve good governance, clear effective communication protocols for Councillors and Council staff are essential. In accordance with the Hepburn Shire Council Councillor Staff Relationship Policy, the following applies:

- Councillors accept their role is leadership, not management or administrative
- Councillors acknowledge that the role of the Chief Executive Officer is primarily responsible for staff
- Councillors acknowledge that they have no capacity to individually direct members of Council staff to carry out specific functions.

► COUNCILLOR CODE OF CONDUCT

- Councillor refrain from using their position to improperly influence members of Council staff in their duties and functions, or to gain, or seek to gain, advantage for themselves or for others.
- Councillors refrain from publicly criticising staff in a way that casts aspersions on their professional competence or credibility.
- Councillors take no part (direct or indirect) in any personal matter relating to a staff member or any appointment of staff except in the case of the Chief Executive Officer.
- Councillors neither seek nor encourage the involvement of any member of Council staff in promoting the election of any candidate for the election as a councillor.
- Councillors should always maintain at all times a professional relationship with member of council staff.

Further details relating to the appropriate Councillor / Staff relationship is detailed in Council's Councillor Staff Relationship Policy. <https://www.hepburn.vic.gov.au/wp-content/uploads/2015/05/Policy37C-Councillor-Staff-Relationship-Policy-18-02-2014.pdf>

4.2. ROLE OF A COUNCILLOR

A Councillors role is to represent their community and advocate on their behalf. They are a valuable link between the community and Council are key to facilitating communication with the community and encouraging engagement with the activities of Council.

There is an expectation that Councillors will make decisions that will benefit and be in the best long-term interest of the whole community. Council has a statutory obligation to represent all people who live, participate and invest within the Hepburn Shire municipality.

Councillors are responsible in establishing and maintaining the good governance of Council.

Councillors determine Council policies and set the strategic direction of the Council, and have a key advocacy and leadership role. Councillors appoint, manage and support the Chief Executive Officer of the organisation to deliver the strategic objectives of the Council. The Chief Executive Officer is responsible for the management and administration.

Councillors collectively as Council, have responsibility for:

- Determining high level strategic directions, policy and service delivery programs;
- Facilitating and encouraging the planning and development of the Shire;

► COUNCILLOR CODE OF CONDUCT

- Advocating on behalf of the local community to various stakeholders and governments
- Representing all citizens and creating a viable and sustainable future and
- Undertaking duties and responsibilities as authorised under the *Local Government Act 2020*.

In accordance with section 28 of the *Local Government Act 2020* the role of a Councillor is to:

- (1) The role of every Councillor is—
 - (a) to participate in the decision making of the Council; and
 - (b) to represent the interests of the municipal community in that decision making; and
 - (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.
- (2) In performing the role of a Councillor, a Councillor must—
 - (a) consider the diversity of interests and needs of the municipal community; and
 - (b) support the role of the Council; and
 - (c) acknowledge and support the role of the Mayor; and
 - (d) act lawfully and in accordance with the oath or affirmation of office; and
 - (e) act in accordance with the standards of conduct; and
 - (f) comply with Council procedures required for good governance.
- 3) The role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer.

Councillor Commitment

As Councillors in good faith we undertake to comply with the various provisions of the Act and with this Code of Conduct.

We respect and recognise the role of the Mayor and will work co-operatively with the Mayor in the performance of the role.

4.3. ROLE OF THE MAYOR

The Mayor is the elected leader of Council. A key role of the Mayor is to facilitate good relationships between Councillors, Councilors and the Chief Executive Officer and the Executive Leadership Team.

The mayor is "first among equals" and takes precedence at all municipal proceedings within the city and chairs meetings of Council. The mayor is elected by Council to represent the views and directions of Council, and councillors, in performing various roles and duties in accordance with section 18 of the *Local Government Act 2020* including:

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

The Mayor cannot also be elected to the office of Deputy Mayor while serving as Mayor.

The Mayor has specific powers in accordance with section 19 of the *Local Government Act 2020*, including

- to appoint a Councillor to be the chair of a delegated committee

► COUNCILLOR CODE OF CONDUCT

- 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
- to require the Chief Executive Officer to report to the Council on the implementation of a Council decision.

The Mayor should be committed to and involved in the Hepburn Shire community, be motivated to succeed, be politically astute and possess a keen political awareness, be an innovator and creative thinker, enjoy and be able to meet the demands of a public profile, be an effective communicator, have a positive and professional presentation, be committed to personal and professional development, be able to work with a wide range of people from diverse backgrounds and groups, be fair, impartial and objective.

The Mayor must have a combination of skills, qualifications and experience, and personal attributes to enable him or her to provide the leadership, motivation and support to ensure the sustained and continuing development of the Hepburn Shire Council, the staff and the Hepburn Shire community.

The Mayor must be able to gain the co-operation, trust and respect of Councillors, staff and the community and have the ability to motivate other people to achieve stated outcomes and results in a team environment.

The Mayor must be able to establish, maintain and present at all times a positive, professional and dynamic image of Council and the community.

A commitment to ongoing professional development, especially in change management and industry trends and issues, is highly desirable and encouraged.

The Mayor is required to adhere to all Hepburn Shire Council's policies and procedures including but not limited to:

- Councillor Code of Conduct
- Governance Rules and Election Period Policy
- Public Transparency Policy
- Privacy Policy
- Council Expenses and Resources Policy
- Public Interest Disclosures Procedures

4.4. ROLE OF THE DEPUTY MAYOR

The role of the elected Deputy Mayor is to give effective support to the Mayor and the Councillors and the day-to-day function of Council.

In accordance with section 21 of the *Local Government Act* the Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if:

- the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
- the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- the office of Mayor is vacant.

4.5. ROLE OF THE CHIEF EXECUTIVE OFFICER

The Chief Executive Officer (CEO) has a number of statutory responsibilities and is accountable to the Mayor and Councillors for delivering Council's strategies and services.

The CEO is responsible for the operations of Council, to provide professional, relevant and timely information and support to the Council.

The CEO is a member of Council staff and is required to comply with all the relevant legislation as the senior officer within the Council administration.

Councillor Commitment

We undertake to respect the functions of the Chief Executive Officer and to comply with the policies, practices and protocols defining appropriate arrangements for interaction between Council staff and Councillors that are put in place by the Chief Executive Officer.

4.6. COUNCILLOR VALUES AND BEHAVIOUR

Council is committed to continuously improving its relationship with the community and will work with the community of Hepburn Shire to prepare a framework of strategic documents that articulates its shared vision for the future and develops a plan to achieve it.

Through 'Hepburn Together' Council will engage with the community to inform the development of the strategic documents that are required to be developed and adopted in line with the *Local Government Act 2020*.

▶ COUNCILLOR CODE OF CONDUCT

These documents include:

- **Community Engagement Policy**
- **10 year community vision**
- **4 year Council Plan**
- **Financial plan**
- **Asset management plan**

Through the development of the 10 year community vision and a 4 year Council Plan, Councillors will engage in workshops where collectively they will work towards establishing a set of shared values and behaviours.

Once prepared and adopted, these values and behaviours will be an administrative insertion into this section – 4.7 Councillor Values and Behaviours of the Councillor Code of Conduct and when adopted, Councillors effectively adopt them as part of this Councillor Code of Conduct.

Due to the amendment, the Code will not be brought back to Council for adoption and will be incorporated as an administrative amendment.

This section will then be replaced with the adopted Values and Behaviours.

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

5. COUNCILLOR CONDUCT STANDARDS (STANDARDS OF CONDUCT)

Councillors must comply with the prescribed standards of conduct in schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations).

Schedule 1 – Standards of Conduct as extracted from the Regulations state:

5.1. 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.

Councillor Commitment

- I will respect and promote the human rights set out in the Charter of Human Rights and Responsibilities and understand how they apply to their work.
- I will contribute to ensuring that the workplace is an environment where people are treated fairly and with respect and are free from all forms of unlawful discrimination and inappropriate workplace behaviours, such as sexual harassment, victimisation, bullying, harassment and occupational violence.
- I will be fair, objective and respectful in their dealings with other Councillors, staff and the community.

5.2. 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—

▶ COUNCILLOR CODE OF CONDUCT

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

Councillor Commitment

- I will perform my duties diligently, impartially and responsibly, acting in good faith and in the interest of Council and the Hepburn Shire community.
- I will refrain from any form of conduct which may cause a reasonable person unwarranted offence or embarrassment.
- I will show respect at all times when dealing with others, community, customers, other Councillors and staff at all levels. Any grievances or differences of opinion will be raised in an appropriate forum and in accordance with Council policies.

5.3. COMPLIANCE WITH GOOD GOVERNANCE MEASURE

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

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

▶ COUNCILLOR CODE OF CONDUCT

Councillor Commitment

- I will act in accordance with the principles of good governance
- I will impartially exercise my responsibilities in the interests of the local community
- I will not improperly seek to confer an advantage or disadvantage on any person.

5.4. 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.

Councillor Commitment

- I will act honestly and avoid actions or conduct that will or are likely to mislead or deceive a person
- I will accept each individuals differences, values, culture and beliefs
- I will always listen to the views and ideas of other people

5.5. STANDARDS DO NOT LIMIT ROBUST POLITICAL DEBATE

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

Councillor Commitment

- I will contribute and debate items with respect in the Council Chamber
- I will accept the final Council decision

6. SPECIFIC COUNCILLOR CONDUCT OBLIGATIONS

The following sections sets out specific conduct obligations that are agreed by all Councillors. In some instances, a breach of the conduct obligations under this part might also constitute a breach of the conduct standards. As noted in part 5.1 a breach of the conduct standards may result in a finding of misconduct under the *Local Government Act 2020*.

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

6.1. DECISION MAKING AND COMMUNICATION

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

There may be times when individual Councillors disagree with a majority decision of Council. Individual Councillors are entitled to express their own independent view, however this should not be done in a way that is disrespectful or reflects negatively on other Councillors or the Council.

To ensure constructive decision making and communications, Councillors will:

- Commit to making all decisions impartially and in the best interests of the community
- Make fair and unbiased decisions by adhering to the principles of natural justice
- Consider an individual's interest that may be affected by a Council decision
- Regularly attend meetings of Council, actively and openly participating in the decision-making process, striving to achieve the best outcomes for the community
- Seek approval from Council for leave of absence from Council meetings or where a Councillor wishes to take a period of time off for personal leave or sick leave
- Observe Council's policies and procedures relating to social media, media content and press releases,
- Respect the views of individuals in debate, however also accept that decisions are based on majority vote
- Not make allegations that are personally offensive, derogatory, defamatory and
- Treat all matters on individual merit and base decision-making on facts.

► COUNCILLOR CODE OF CONDUCT

6.1.1. PERSONAL DEALINGS WITH COUNCIL

When dealing with Council in a private capacity (e.g. as a ratepayer, resident or recipient of a Council service or an application for a permit) Councillors must not expect or request preferential treatment in relation to any such private matter. Councillors must avoid any action that could lead Council staff or members of the public to believe that preferential treatment is being sought.

The Governance Rules set out the procedures for decision making by Council and I agree to adhere to the Rules as adopted and revised by Council.

6.2. USE OF COUNCIL INFORMATION

Councillors acknowledge that information which is confidential information, within the meaning of section 3 and section 125 of the *Local Government Act 2020* may not be disclosed by a Councillor except in certain specified circumstances.

Councillors are required to be aware that Council information may be subject to other legislation such as the *Health Records Act 2001*, *Privacy and Data Protection Act 2014* and *Freedom of Information Act 1982*.

Councillors are required to comply with legislative provisions and Council policies concerning their access to, use of, or disclosure of Council information, whether confidential or otherwise.

6.3. SOCIAL MEDIA AND COMMUNICATIONS

Councillors need to ensure that the use of social media minimises the exposure of Council and Councillors to legal and reputational risk.

When using social media, Councillors need to have at the forefront of their minds their obligations under the Code of Conduct. The Code of Conduct applies to online activity in the same way it does to other written or verbal communication. This means three key things:

1. Be respectful
2. Be fair and open minded
3. Be accurate

6.3.1. MEDIA RELEASES

All media releases issued by Council will be issued by Council's Communications Officer(s).

Prior to their release, all media releases issued by Council will be authorised by the Chief Executive Officer or delegate (Director). Prior approval must be obtained from the Mayor

or a respective Councillor for a media release issued by Council where the Mayor or Councillor is quoted by name.

6.3.2. PUBLIC COMMENT

Councillors acknowledge that individual Councillors are entitled to express their personal opinions through the media. Where a Councillor chooses to do so, the Councillor will make it clear that such opinions are a personal view and does not represent the position of Council.

Councillors are required to ensure that any such are is devoid of comments that could reasonably be construed as being derogatory, offensive or insulting to any person.

There may be times when a Councillor as an individual disagrees with a majority decision of the Council and wants the community to know that. The appropriate time and place for communicating diverging views is when an item is being debated in the Council Chamber. This provides the best opportunity for informed decision making and for both the community and the media to better understand the diversity of Councillor views and perspectives in context.

Although the Hepburn Shire Council supports transparency and accountability in decision making, free speech and the use of appropriate robust processes to debate policy, pursuit of political objectives and resolution of differences, it does not and will not condone personal and public criticisms of Councillors, staff and the organisation. Any Councillor who engages in such conduct will be in breach of the Councillor Code of Conduct.

6.4. BINDING CAUCUS VOTES

Councillors must not participate in binding caucus votes in relation to matters to be considered at a Council or committee meeting.

For the purposes of this section, a binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary action or otherwise adverse action to comply with a predetermined position on a matter before the Council or committee, irrespective of the personal views of individual councillors of the group on the merits of the matter before the Council or the Committee.

This section does not prohibit Councillors from discussion a matter before the Council or a committee prior to considering the matter in question at a Council or a committee meeting, or from voluntarily holding a shared view with other Councillors on the merits of a matter.

6.5. GIFTS, BENEFITS AND HOSPITALITY

Councillors should 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 secure favourable treatment. Councillors must be aware of their responsibilities to gifts, hospitality and donations.

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

When a gift is received on behalf of council, that gift becomes the property of Council. For transparency and accountability purposes, such gifts will be recovered in the Gifts Register with annotation that it is the property of Council.

Councillors should recognise that gifts equal to or above the gift disclosure threshold which will be detailed in the Councillor Gift Policy may give rise to a conflict of interest and receipt of such gift needs to be recovered in the Gifts Register.

When prepared pursuant to section 138 of the *Local Government Act 2020*, the Councillor gift Policy will provide further guidance on gifts, prohibited gifts and any other matters prescribed by the regulations.

6.6. CONFLICTS OF INTEREST

Each Councillor is required to identify, manage and disclose any conflicts of interest that they may have. Councillors therefore recognise the importance of fully observing the requirements of the *Local Government Act 2020* (namely Division 2 sections 126 to 131) and the *Local Government (Governance and Integrity) Regulations 2020* in regard to the disclosure of conflicts of interest and will comply with the requirements of the Act and Regulations in regard to conflicts of interest.

In addition to these requirements of the Act, Councillors will:

- a) Give early consideration and notify the Mayor as well as the Chief Executive Officer on whether a conflict of interest exists on any matter to be considered at a Council meeting or Councillor briefing, delegated committee or advisory committee of which the Councillor is a member.
- b) Give consideration on whether a conflict of interest exists
- c) Recognise that the level of onus to determine whether a conflict of interest rests entirely with each individual Councillor and members of Council Staff are not responsible for this determination.

► COUNCILLOR CODE OF CONDUCT

- d) If a Councillor is uncertain as to whether a conflict of interest exists, the Councillor should declare a conflict of interest and comply with the relevant requirements as if they had a conflict of interest.
- e) Notify, as soon possible the mayor or the Committee Chair if they consider that they are unable to vote on a matter because of a conflict of interest depending on whether the matter is to be considered by the Council or the delegated committee.

Councillors are required to notify the Chief Executive Officer or the Mayor of any declaration of conflict of interest in writing at Councillor briefings, Council or Committee meetings or meeting conducted under the auspice of Council, at which a matter is to be discussed.

6.7. USE OF COUNCIL RESOURCES

Councillors recognise the need to exercise appropriate prudence in the use of council resources and that they are to be used solely in the public interest.

Councillors will use Council resources efficiently and economically and will –

1. Maintain adequate security over Council property, facilities and resources provided to assist them in performing their role,
2. Adhere and comply with any Council policies or guidelines established for the use of Council resources and facilities,
3. Not use public funds or resources in a manner that is improper or unauthorised,
4. Not use Council resources, including services of members of council staff, for private purposes, unless legally or properly authorised to do so and payment are made where appropriate,
5. Not use Council resources, including members of Council staff, equipment and/or intellectual property for electoral or other purposes outside of normal Council business, and
6. Ensure that all expense claims are accurate, supported by the relevant documentation and strictly relate to Council business.

Council's Expenses and Resources Policy provide further guidance and direction on the use of Council resources.

6.8. COUNCIL PLANNING PROCESS / MEETING PLANNING PERMIT APPLICANTS

Councillors must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly.

► COUNCILLOR CODE OF CONDUCT

Councillors must avoid any occasions or situations where there may be a suspicion or perception of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

In exercising land use planning, development assessment and other regulatory functions, Councillors must ensure that no action, statement or communication between themselves and others conveys a suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

When proposing to meet with a planning permit applicant, either for the purposes of discussing the application or where the application is likely to become a topic of discussion, Councillors should seek a meeting via the Planning Manager Development and Community Safety and Coordinator Planning to ensure a Council planning officer is present.

6.9. INTERACTIONS WITH CHILDREN AND YOUNG PEOPLE

Council prides itself on being a child safe organisation and has zero tolerance for child abuse.

Council adheres to the Victorian Child Safe Standards and associated legislation.

Councillors must be aware of their responsibilities outlined in Council's Child Safe Policy 81(C). At any time when this Policy is revised and adopted, the Policy at the time of adoption becomes the Policy position that Councillors must adhere to.

Council will respect, listen to and promote the rights of children, and ensure behaviour and interactions with children are age appropriate, respectful and adhere to the behavioural expectations outlined in the Child Safe Standards.

6.10. ELECTIONS / POLITICAL ACTIVITY

Councillors are committed to fair and democratic Council elections and adopts practices and legislative requirements as set out in Council's Election Period Policy – Chapter 7 of Council's Governance Rules and the *Local Government Act 2020*.

6.10.1. STATE AND FEDERAL ELECTIONS

Councillors are required to follow any guidelines issued in relation to Candidature of Councillors in State or Federal Elections. These include the Municipal Association of Victoria's (MAV) Policy position regarding Candidature of Councillors in State or Federal Elections or Local Government Victoria guidelines.

6.11. REPORTING UNETHICAL BEHAVIOUR/FRAUD AND CORRUPTION

Ethical behaviour is an integral part of responsible, effective and accountable government.

Councillors need to acknowledge Council's obligations under the *Public Interest Disclosure Act 2012* to facilitate the making of disclosures of improper conduct by public officers and public bodies, including Council, its employees and Councillors.

Councillors are required to report to the Chief Executive Officer and/or appropriate integrity body, in line with Council's Public Interest Disclosure Procedures for Hepburn Shire Council, any suspected, potential, or actual fraudulent, criminal, unethical, corrupt, or other unacceptable behaviour that comes to their knowledge.

Councillors are required to participate to the best of their ability in any subsequent investigation whether undertaken internally or externally.

6.12. HUMAN RIGHTS, EQUAL OPPORTUNITY & GENDER EQUALITY

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

Councillors are required to acknowledge the human rights that are protected under the *Victorian Charter of Human Rights and Responsibilities 2006* and undertake to exercise my duties in a manner that is compatible with the rights set out in the Charter.

This undertaking extends to all relationships as a Councillor, including with other Councillors, the Chief Executive Officer, and members of Council Staff, as well as any member of the Public with whom they have contact, and any decisions that Councillors participate in as a Councillor.

Councillors are required to adhere to the Respectful Behaviours Policy – Policy 33(C) that applies to all Council employees, Councillors, contractors and volunteers.

The Policy sets out a commitment that all individuals receive fair and consistent treatment in the workplace that is free from harassment, discrimination, bullying and unfair treatment.

Councillors are required to:

1. Take reasonable steps to eliminate all forms of discrimination at Council
2. Support Council to fulfil its obligations to achieve and promote gender equality
3. Adhere to Council's Respectful Behaviours Policy.

6.12.1. GENDER EQUALITY

Council must implement and operate in accordance with gender equity principles, imposed by the Gender Equality Act 2020, primarily allowing for:

1. All Victorians should live in a safe and equal society, have access to equal power, resources and opportunities and be treated with dignity, respect and fairness
2. Gender equality is a human right and precondition to social justice
3. All human being, regardless of gender, should be free to develop their personal abilities, peruse their professional careers and make choices about their lives without being limited by gender stereotypes, gender roles or prejudices.

6.12.2. HARASSMENT AND SEXUAL HARASSMENT

Sexual harassment is against the law and will not be tolerated under any circumstances. In performing their role Councillors must take positive action to eliminate sexual harassment in accordance with the *Equal Opportunity Act 2010*.

Councillors must not engage in any unwelcome conduct of sexual nature towards another individual where a reasonable person, having regard to all circumstances, would have anticipated the possibility that the individual harassed would be offended, humiliated or intimidated.

Councillors are required to take all reasonable steps to eliminate sexual harassment at Council.

Councillors 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 immigrants status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identify or inters sex status or political, religious or other affiliation.

6.12.3. BULLYING, VILIFICATION, AND VICTIMISATION

Councillors must not engage in any bullying behaviour towards each other. Council is required to maintain a workplace that is free from bullying, vilification and victimisation, where all people are treated with dignity and respect. In performing their role Councillors must take positive action to eliminate victimisation in accordance with the *Equal Opportunity Act 2010*.

For the purposes of this section, 'bullying behaviour' is any behaviour which –

- a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons and

► COUNCILLOR CODE OF CONDUCT

- the behaviour creates a risk to their health, safety and wellbeing.

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

- aggressive, threatening or intimidating conduct
- belittling or humiliating comments
- spreading malicious rumours
- teasing, practical jokes or 'initiation ceremonies'
- exclusion from work related events
- unreasonable work expectations, including too much or too little work, or work below or beyond a workers skill level
- displaying offensive material
- pressure to behave in an inappropriate manner

Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this section.

6.13. OCCUPATIONAL HEALTH AND SAFETY

Council is committed to providing and maintain a safe workplace for all and recognises the provisions of the *Occupational Health and Safety Act 2004* apply to Council and Councillors. The Chief Executive Officer has a clear accountability for OHS matters, given their mandate under the *Local Government Act 2020* and will put policies in place from time to time to ensure that a safe workplace for Councillors to carry out their civic duties.

Occupational health and safety is a shared responsibility and Councillors are required to take reasonable care to protect their own health and safety as well as the health and safety of others in the workplace.

Councillors are required to, through the Chief Executive Officer, take reasonable care to ensure that Council in its gender duties ensures a safe workplace is without risks to health by ensuring appropriate systems and policies are in place to manage those risks.

Councillors are required to report incidents, accidents, near misses to the Chief Executive Officer or Manager Governance and Risk and take part in any incident investigations.

7. IMPROPER CONDUCT

There are specific types of conduct that are expressly prohibited by the *Local Government Act 2020*.

Councillors are required to acknowledge that, in many cases a breach of a specific provision in the Act may be subject to prosecution in a Court.

7.1. MISUSE OF POSITION

Councillors are required to acknowledge and agree to adhere to their responsibilities under section 123 of the *Local Government Act 2020*:

- (1) A person who is, or has been, a councillor or member of a delegated committee must not misuse their position –
- a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
 - b) to cause, or attempt to cause, detriment to the Council or another person.

An offence against section 123(1) is an indictable offence.

- (2) 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 –
- 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.

This section:

- a) has effect in addition to, and not in derogation from, any Act or law relating to the criminal or civil liability of Councillors or members of delegated committees; and
- b) does not prevent the institution of any criminal or civil proceedings in respect of that liability.

► COUNCILLOR CODE OF CONDUCT

7.2. DIRECTING A MEMBER OF COUNCIL STAFF

Councillors must not use their position to influence Council staff in the performance of their public or professional duties to obtain a private benefit for themselves or for somebody else.

Councillors must not take advantage (or seek to take advantage) of their status or position with or of functions they perform for Council in order to obtain a private benefit for themselves or for any other person or body.

Councillors acknowledge and agree to comply with their obligations in regard to improper direction and improper influence section 124 of the *Local Government Act 2020*.

Section 124 of the *Local Government Act 2020* states:

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 another 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.

Penalty: 120 Penalty units.

7.3. CONFIDENTIAL INFORMATION

Councillors have access to council information necessary for them to carry out their roles properly. However, a Councillor must remain impartial and must not use council information to gain advantage for themselves or any other person. Information is 'confidential' for the purposes of the LGA if it is:

- provided for a closed council or delegated committee meeting;
- designated confidential by resolution of a council or delegated committee; and
- designated confidential by the Chief Executive officer

Information discussed at a closed meeting is confidential. Unless the information is already publicly available, Councillors must not talk about anything discussed at the

meeting with people who were not present in accordance with section 125 of the *Local Government Act 2020*.

8. DISPUTE RESOLUTION

Councillors have an individual and collective responsibility to try every avenue possible to resolve dispute in-house and prevent them escalating further.

Dispute resolution processes are intended to be used –

- a) when Councillors are unable to resolve an interpersonal conflict and where the situation is unduly affecting the operation of Council or
- b) to manage complaints or concerns regarding the behaviour of Councillors from public or Council staff.

Dispute resolution processes are not intended to resolve differences in policy or decision making, which should be more appropriately resolved through discussion and voting in Council or committee meetings.

Where a dispute arises from a complaint generated by a member of the public or Council staff, access to the dispute resolution process as detailed in the Code is only possible where a Councillor or a group of Councillors takes up the complaint about another Councillor on behalf of the complainant.

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

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

The Hepburn Shire Council dispute resolution procedure comprises four components, namely:

1. Informal Self resolution
2. Mayoral negotiation
3. External mediation
4. Request for Councillor Conduct Panel

The procedure operates alongside, and does not displace, any external avenues provided for by legislation for the reporting and resolution of issues and disputes. It should be read in conjunction with the *Local Government Act 2020* which sets out avenues for reporting matters of Councillor misconduct and establishes external authorities to hear, investigate

► COUNCILLOR CODE OF CONDUCT

and prosecute and make findings of Councillor misconduct, serious misconduct and gross misconduct.

This procedure does not include a complaint made against a Councillor or a group of Councillors or members of Council staff, or by any other person, or a “disclosure” under the *Public Interest Disclosure Act 2012*.

For the purposes of this part of the Code:

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

Responsibilities

The Mayor and Deputy Mayor

The Mayor and the Deputy Mayor have the responsibility to:

- Establish and promote appropriate standards of conduct
- Supporting good working relationships between Councillor
- Support Councillors in the dispute resolution

Councillor Conduct Officer

The Councillor Conduct Officer has a responsibility to:

- Assist in the implementation and conduct of the internal resolution procedure
- Assist the principal Councillor Conduct Registrar to perform the functions specified in section 149 of the *Local Government Act 2020*.

The Chief Executive Officer

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

- Ensure that support and assistance is provided to all Councillors where it is required
- Take all reasonable steps to ensure the consistent and accountable application of this Code across Council
- Comply with all the relevant legislation as the senior officer within Council administration.

Councillors

► COUNCILLOR CODE OF CONDUCT

Councillors as defined in this section have the responsibility to:

- Co-operate with any investigation into, or arbitration of, a complaint made under this procedure
- Maintain confidentiality regarding the complaint.

8.1. INFORMAL SELF RESOLUTION

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

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

8.2. MAYORAL NEGOTIATION

If the information resolution process between Councillors is unsuccessful, the Mayor should be involved as soon as practicably possible to convene a meeting of the parties.

A dispute referred for Mayoral negotiation may relate to:

- An interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council and;
- An alleged contravention of the Councillor Code of Conduct.

The parties requesting the Mayoral negotiation meeting is to provide the Mayor with the names of the other Councillor(s) and the details of the dispute in writing. The written request is to indicate that it is for a "Mayoral negotiation" dispute resolution process.

Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the request is made by a group of Councillors; and
- be signed and dated by the requestor or the requestor's representative.

Within 5 days of receipt of the complaint, the Mayor will:

► COUNCILLOR CODE OF CONDUCT

- provide written acknowledgment of receipt of the complaint to the Complainant;
- provide a copy of the complaint to the Councillor concerned; and
- attempt to facilitate a resolution and convene a meeting

The mayor will call upon the Councillor Conduct Officer for advice and guidance at this point in the process.

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 the role of a Councillor under section 28 of the *Local Government Act 2020*, and the observation of the Councillor Standards of Conduct and the Councillor Code of Conduct.

The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to external mediation.

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 parties should progress to external mediation.

8.2.1. DISPUTE BETWEEN COUNCILLOR(S) AND THE MAYOR

In the event that the dispute involves the Mayor, the Deputy Mayor or other Councillor nominated by Council resolution will perform the role of the Mayor in facilitating discussions between the parties in dispute and liaising with the Councillor Conduct Officer.

8.3. EXTERNAL MEDIATION

If reconciliation of the dispute is not possible after Mayoral negotiation, it is the responsibility of the Mayor to seek assistance from an external mediator to resolve the dispute, preferably with the active support of the parties to the dispute, who must be informed of such a decision in any circumstance.

A Councillor or a group of Councillors may make an application for a dispute to be referred for external mediation whether or not the dispute has been the subject of an application for “self resolution”.

The applicant is to submit a written application to the Councillor Conduct Officer setting out the name of the Councillor and the details of the dispute. The application is to indicate that the application is:

► COUNCILLOR CODE OF CONDUCT

for an “external mediation”. Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

- specify the name of the Councillor alleged to have contravened the Code;
- specify the provision(s) of the Code that is alleged to have been contravened;
- include evidence in support of the allegation;
- name the Councillor appointed to be their representative where the application is made by a group of Councillors; and
- be signed and dated by the applicant or the applicant’s representative.

The applicant is to notify the other party of the request and provide him or her with a copy of the application either at the same time that it is submitted to the CCO or as soon as practical thereafter.

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

When the other party declines to participate in an external mediation, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party agrees to participate in an external mediation, the Councillor Conduct Officer is to advise the applicant, the Mayor and Chief Executive Officer immediately.

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

The mediator is to document any agreement reached at the meeting. Copies of the agreement 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.

9. BREACHES OF THE PRESCRIBED STANDARDS OF CONDUCT

Section 141 of the *Local Government Act 2020* provides for an internal arbitration process to apply to any breach of the prescribed standards of conduct, which are detailed in Part 5 of this Code of Conduct.

A panel of eligible persons will be appointed to act as an arbiter when required.

Information provided to an arbiter or produced by an arbiter for the purposes of an internal arbitration process, other than the findings and the reasons, is confidential information.

9.1. APPLICATION FOR AN INTERNAL ARBITRATION PROCESS

An application for an internal arbitration process must relate to alleged misconduct by a Councillor. An application may be made by:

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

An application must be made within 3 months of the alleged misconduct occurring in accordance with section 143 of the *Local Government Act 2020*. The application must include:

- The name of the Councillor alleged to have breached the standards of conduct
- The clause of the standards of conduct that the Councillor is alleged to have breached and
- The misconduct that the Councillor is alleged to have engaged in that resulted in that breach.

Section 11 of the *Local Government (Governance and Integrity) Regulations 2020* requires a Councillor Conduct officer to submit the application to the Principal Councillor Conduct Registrar and to provide a copy of the application to the Councillor who the subject of the application.

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

9.1.1. PRINCIPAL COUNCILLOR CONDUCT REGISTRAR MUST EXAMINE APPLICATION

- (1) The Principal Councillor Conduct Registrar, after examining an application under section 143 of the *Local Government Act 2020*, must appoint an arbiter to the

► COUNCILLOR CODE OF CONDUCT

Council to hear the matter if the Principal Councillor Conduct Registrar is satisfied that—

- (2)
 - (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.
- (3) The Principal Councillor Conduct Registrar must reject an application if the Principal Councillor Conduct Registrar is not satisfied under subsection (1)(a) or (b).
- (4) The rejection of an application by the Principal Councillor Conduct Registrar under this section does not prevent a further application being made under section 143 in respect of the same conduct by a Councillor that was the subject of the rejected application.
- (5) 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.

Upon receiving the application, The Principal Councillor Conduct Registrar will:

- Advise the CEO or the Mayor (where appropriate) of the application without undue notice or delay
- Identify an Arbiter to hear the application
- Obtain from the Arbiter written advice that they have no conflict of interest in relation to the Councillors involved
- Notify the parties of the name of the proposed Arbiter and provide them with the opportunity (2 working days) to object to the person proposed to be the Arbiter
- Consider the grounds of any objection and appoint the proposed Arbiter or identify another arbiter
- Provide a copy of the Application to the Arbiter as soon as practicable after the opportunity for the parties to object to an Arbiter has expired
- After consultation with the Arbiter, advise the applicant and the Respondent of the time and place for the hearing
- Attend the hearing(s) and assist the Arbiter in the administration of the process.

9.1.2. ARBITER MUST REFER CERTAIN APPLICATIONS

(1) 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 of the *Local Government Act 2020*, the arbiter must refer the matter in writing to the Principal Councillor Conduct Registrar.

(2) 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.

Section 154 of the *Local Government Act 2020* provides for 'application to Councillor Conduct Panel' where allegations of serious misconduct by a Councillor are made.

9.1.3. SANCTIONS THAT MAY BE IMPOSED BY AN ARBITER ON FINDING MISCONDUCT

- (1) 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.
- (2) 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.
- (3) The arbiter must provide a written copy of the arbiter's decision and statement of reasons to—
 - (a) the Council; and

► COUNCILLOR CODE OF CONDUCT

- (b) the applicant or applicants; and
 - (c) the respondent; and
 - (d) the Principal Councillor Conduct Registrar.
- (4) Subject to subsection (5), 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.
- (5) If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted from the copy tabled under subsection (4).

9.1.4. NO APPLICATIONS TO BE MADE DURING THE 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:

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

9.2. REQUEST FOR COUNCILLOR CONDUCT PANEL

The Principal Councillor Conduct Registrar manages the establishment of Councillor Conduct Panels.

All applications (supported with evidence) to establish a panel to hear allegations of misconduct or serious misconduct must go to the registrar. The panel must be established if the registrar is satisfied that the application is not frivolous or misconceived or lacking in substance, is supported by evidence and council processes have been fully exhausted or are not appropriate.

► COUNCILLOR CODE OF CONDUCT

154 Application to Councillor Conduct Panel

(1)A Councillor Conduct Panel may hear an application that alleges serious misconduct by a Councillor.

(2)Subject to subsection (4), an application for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor may be made by—

(a)the Council following a resolution of the Council to make an application to a Councillor Conduct Panel under this subsection in respect of a Councillor's conduct; or

(b)a Councillor or a group of Councillors; or

(c)the Chief Municipal Inspector.

(3)An application under subsection (2) must be made within 12 months of the alleged serious misconduct occurring.

(4)An application for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor that alleges that the Councillor has failed to disclose a conflict of interest may only be made by the Chief Municipal Inspector.

(5)An application made under this section 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)(n).

(6)An application made under this section must—

(a)specify the ground or grounds for the application; and

(b) set out—

(i)the circumstances, actions or inactions of the Councillor who is the subject of the application that are alleged as constituting serious misconduct; and

(ii)the particulars of any evidence of those circumstances, actions or inactions of the Councillor that are alleged as constituting the serious misconduct; and

(c) specify—

(i)any steps taken by Council to resolve the matter that is the subject of the application and the reason why the matter was not resolved by the taking of those steps; or

(ii)if the Council did not take any steps to resolve the matter that is the subject of the application, the reason why the Council did not take any steps to resolve the matter.

(7)If an application is made under this section by the Council or a group of Councillors, the application must state the name and address of the Councillor whom the Council or the group of Councillors has appointed as representative of the Council or the group of Councillors.

10. COUNCILLOR COMMITMENT TO THE COUNCILLOR CODE OF CONDUCT

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

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

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

I also acknowledge that Council is committed to our shared values and behaviours, which are set out in this Code, together with other significant statutory conduct obligations and the process for management of behaviour which does not meet the required standards.

The Code also sets out specific protocols, policies and procedures which underpin the values and provide guidance for the implementation and management of Councillor conduct.

As a Councillor of the Hepburn Shire Council I agree to:

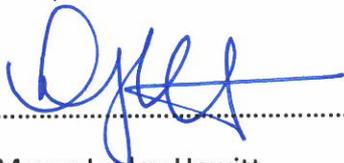
- Act in accordance with the principles of good governance and respectful conduct and associated obligations as set out in the Code and legislation
- Provide civic leadership and contribute to the interests and advancement of the Council and its community
- Contribute to the strategic vision of Council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

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

This Code will be reviewed in accordance with relevant legislative obligations.

► COUNCILLOR CODE OF CONDUCT

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



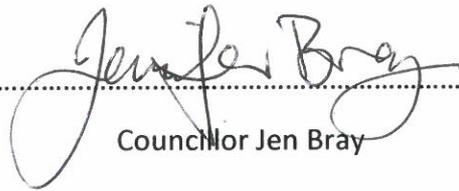
Mayor Lesley Hewitt



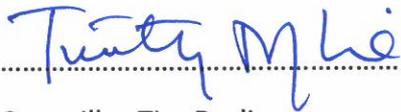
Deputy Mayor Brian Hood



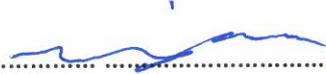
Councillor Tessa Halliday



Councillor Jen Bray



Councillor Tim Drylie



Councillor Juliet Simpson



Councillor Don Henderson

11. RELEVANT LEGISLATION

[The Local Government Act 2020](#)

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

[Child Wellbeing and Safety Act 2005](#)

[Equal Opportunity Act 2012](#)

[Occupational Health and Safety Act 2004](#)

[Public Interest Disclosure Act 2012](#)

[Sex Discrimination Act 1984](#)

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

[Privacy and Data Protection Act 2014](#)