



COUNCILLOR CODE OF CONDUCT

Adopted by Council: 20 February 2017

Declaration by Councillors on 20 February 2017

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OUR COMMITMENT TO WHITEHORSE

As Councillors, we commit to providing the City with good government by:

- a) Engaging with the community;
- b) Reflecting community values and aspirations;
- c) Making decisions in a transparent manner;
- d) Making decisions in an efficient and timely manner;
- e) Advocating and representing with integrity, the interests of the community to other levels of government and to public and private agencies;
- f) Reporting regularly to the community on its plans, actions and performance; and
- g) Encouraging social economic and environmental sustainability.

As Councillors, we commit to being:

- a) Innovative;
- b) Inclusive;
- c) Caring;
- d) Open;
- e) Responsive;
- f) Honest;
- g) Transparent;
- h) Visionary.

As a Council, we promote high standards of performance, accountability and a culture based on strong values of excellence, respect, integrity and courage.

This Councillor Code of Conduct and Councillor's Commitment to Whitehorse were adopted by Whitehorse City Council on 20 February 2017.

DECLARATION

I hereby declare that I have read the Councillor Code of Conduct for Whitehorse City Council, adopted on 20 February 2017 and declare that I will abide by this Code.

Name	Councillor Signature & Date	CEO (as Witness) Signature & Date
Cr Andrew Munroe	Date:	Date:
Cr Denise Massoud	Date:	Date:
Cr Tanya Tescher	Date:	Date:
Cr Tina Liu	Date:	Date:
Cr Bill Bennett	Date:	Date:
Cr Raylene Carr	Date:	Date:
Cr Sharon Ellis	Date:	Date:
Cr Andrew Davenport	Date:	Date:
Cr Ben Stennett	Date:	Date:
Cr Prue Cutts	Date:	Date:

1. COUNCILLOR CONDUCT PRINCIPLES

In performing the functions and exercising the powers conferred by or under the *Local Government Act 1989* (the Act) or any other Act for the peace, order and good government of the municipal district of Whitehorse City Council, Councillors will adhere to the following Councillor conduct principles in compliance with sections 76B and 76BA of the Act -

1.1 Primary principle of Councillor Conduct

It is a primary principle of Councillor Conduct that, in performing the role of a Councillor, a Councillor must—

- Act with integrity; and
- Impartially exercise his or her responsibilities in the interests of the Whitehorse community; and
- Not improperly seek to confer an advantage or disadvantage on any person.

1.2 General Councillor conduct principles

In addition to acting in accordance with the primary principle of Councillor Conduct specified above, in performing the role of a Councillor, a Councillor must—

- Avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
- Exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- Endeavour to ensure that public resources are used prudently and solely in the public interest;
- Act lawfully and in accordance with the trust placed in him or her as an elected representative; and
- Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

2. INTERNAL RESOLUTION PROCEDURE

2.1 Informal discussion

Before commencing the formal internal resolution procedure specified below, the Councillors who are parties to an alleged contravention of this Code will endeavour to resolve the matter informally in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.

2.2 Facilitation by Mayor

If the alleged contravention cannot be informally resolved, the Mayor will facilitate discussion between the parties.

2.3 Arbiter involvement

If the matter is not satisfactorily resolved after Mayoral facilitation, the Mayor, with the assistance of the Principal Conduct Officer (appointed by the Chief Executive Officer under S81s of the Act), will commence the formal internal resolution procedure by appointing a suitably independent arbiter who is able to carry out the role of the arbiter fairly.

If the Mayor is involved in the alleged contravention of the Code, a Councillor appointed by the Council shall assume the role of the Mayor in the facilitation process and the appointment of any arbiter.

If an arbiter is appointed, the parties:

- a) Shall provide reasonable assistance to the arbiter if requested; and
- b) Must participate in good faith in the arbitration.

The role of the arbiter is to:

- a) Consider the alleged contravention of the Code;
- b) Ensure that the parties involved are given an opportunity to be heard by the arbiter;
- c) Explore if the alleged contravention can be resolved between the parties without making any findings; and
- d) Failing resolution between the parties make any findings in relation to the matter which the arbiter must give, together with written reasons for any findings, to Council and to each party to the matter.

2.4 Natural justice

The principles of natural justice must be observed during the arbitration of an alleged contravention of this Code. There is a right to a fair hearing before an arbiter who is impartial. The Councillor who is the subject of an alleged contravention must be given all relevant information in regard to the allegation and an opportunity to respond and be supported if he or she desires.

Any Councillor who alleges a contravention of the Code must not be disadvantaged because of such action.

All deliberations regarding alleged contraventions of the Code should be conducted in confidence.

2.5 Application of the Code

The Code does not override, prevail over, or amend legislation applicable to the roles, responsibilities, and duties of Councillors.

2.6 Advice

Councillors are individually responsible for seeking relevant advice from the Chief Executive Officer or Manager of Civic Services as to the application of the Code.

3. INCORPORATED DOCUMENTS

The following documents are incorporated by reference into this Code –

- a) Guide for Councillors;
- b) Election Period Policy.



Guide for Councillors

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GUIDE FOR COUNCILLORS

1. INTRODUCTION

This Guide is a document which has been incorporated by reference and forms part of the Councillor Code of Conduct.

The Whitehorse City Councillors, having been democratically elected in accordance with the *Local Government Act 1989* (Act), and having acknowledged the Councillor conduct principles set out in the Act, agree that the role of the Council acting as a whole includes:

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

Council is committed to strategic leadership and open and amenable government in partnership with the community and supported through regional collaboration and co-operation.

2. CONDUCT AND INTERESTS

Division 1A of Part 4 of the Act deals with “Conduct and Interests”. A summary of each of the relevant sections is provided below –

Section	Requirement
76AA	Defines: <ol style="list-style-type: none"> “family”; “matter”; “not-for-profit organisation”; and “relevant person”.
76B	Establishes the primary principle of Councillor conduct, namely that a Councillor must: <ol style="list-style-type: none"> act with integrity; and impartially exercise his or her responsibilities in the interests of the local community; and not improperly seek to confer an advantage or disadvantage on any person.
76BA	Establishes additional principles of Councillor conduct, namely: <ol style="list-style-type: none"> avoidance of conflicts of interest; the need to act honestly; respectful treatment of others; the exercise of reasonable care and diligence and acceptance of scrutiny; the need to endeavour to ensure that public resources are used prudently and solely in the public interest; the need to act lawfully; and to support and promote the principles through leadership and example.
76C	Provides that a Councillor Code of Conduct: <ol style="list-style-type: none"> must include the internal resolution procedure for dealing with an alleged contravention; may establish processes for resolving an internal dispute between Councillors; must include any provisions prescribed for the purpose of this section; must include provisions addressing any matters prescribed for the purpose of this section; and may include any other matters relating to the conduct of Councillors which the Council considers appropriate. <p>A Councillor Code of Conduct must be –</p> <ol style="list-style-type: none"> given to each Councillor; available for inspection by the public at the Council office and any district offices; and published on the Council's Internet website maintained under section 82A <p>Within one month of amendments to a Councillor Code of Conduct being approved in accordance with this section, a Councillor must make a declaration stating that they will abide by the Councillor Code of Conduct.</p> <p>A declaration made by a Councillor must be in writing and witnessed by the Chief Executive Officer.</p>

Section	Requirement
76D	<p>Provides that a person who is, or has been a Councillor or member of a special committee must not misuse his or her position.</p> <p>The term “misuse” includes:</p> <ul style="list-style-type: none"> a. making improper use of information; b. disclosing confidential information; c. directing or improperly influencing a member of Council staff; d. exercising or performing a power, duty of function without authority; e. using public funds or resources in an improper or unauthorised manner; and f. failing to disclose a required Conflict of Interest
76E	<p>Prohibits Councillors from improperly directing staff in the performance of their duties.</p>
77	<p>Provides that a Councillor must not disclose information that he or she knows, or should reasonably know, is confidential information.</p> <p>A Councillor may disclose information that the person knows is confidential information in the following circumstances –</p> <ul style="list-style-type: none"> a. for the purposes of legal proceedings arising under the Act; b. to a court or tribunal in the course of legal proceedings; c. pursuant to an order of a court or tribunal; d. to the Chief Municipal Inspector as required; e. to a Councillor Conduct Panel in the course of a hearing and for the purposes of the hearing; f. to a municipal monitor as required; g. to the extent reasonably required for any other law enforcement purposes

3. COUNCILLOR BEHAVIOUR AND OBLIGATIONS

The Council affirms the following principles of behaviour:

- a) Each Councillor is aware of their responsibility to comply with the conduct principles specified in sections 76B and 76BA of the Act (Refer Appendix A);
- b) Councillors will:
 - i. Always act honestly and with integrity;
 - ii. Comply with all relevant federal, state and local laws;
 - iii. Exercise reasonable care and be diligent in their duties;
 - iv. Be consistent, reasonable and fair in their decision-making but treat all matters on individual merits;
 - v. Always act with impartiality and in the best interests of the community as a whole;
 - vi. Punctually attend all meetings of the Council and Council committees and participate in the decision making process, except when an apology or leave of absence is granted;
 - vii. Treat all people and fellow Councillors with courtesy and respect;
 - viii. Make informed and reasonable decisions in the best interests of the community;
 - ix. Be as informed as possible about the processes and strategic functions of the Council;
 - x. Avoid situations that might create or be perceived to be a conflict between their public and private roles;
 - xi. Keep the community informed about the activities and plans of the Council;
 - xii. Act in a reasonable and fair way and in a manner which is not discriminatory on the basis of gender, language, religion, race, culture or contrary to the Equal Opportunity Act 2010;
 - xiii. Treat all members of the community honestly, fairly and with dignity and in a way which does not cause offence or embarrassment to individuals or groups;
 - xiv. Ensure the security of confidential information by making no commentary on confidential information to the media or any member of the public until Council determines the matter is no longer confidential;
 - xv. Undertake professional development and training; and
 - xvi. In recognition of the Council's commitment to open, accountable and transparent representation, disclose to the Chief Executive Officer (CEO) whether or not they reside within the municipality and of any material change to their place of principal residence, in accordance with the provisions of the Act.

4. COUNCILLOR STANDARDS

Councillors will behave in accordance with this Guide at all times and should:

- a) Maintain ethical and professional standards and discharge their duties with due care and diligence;
- b) Endeavour to support the Council and fellow Councillors in their words, deeds and actions in particular in relation to any dealings with third parties;
- c) Adopt a positive attitude to teamwork and respect for their fellow Councillors;
- d) Maintain proper standards of dress and decorum, along with a high standard of public propriety;
- e) Not act in ways that may damage the Council or its ability to exercise good governance;
- f) Support the meeting procedure Protocol as per Appendix B.

5. COUNCILLOR / STAFF RELATIONSHIPS

To achieve its desired outcome the Council must work as a team with the Chief Executive Officer and other Council staff. For this teamwork to be successful Councillors need to:

- a) Accept that their role is one of policy development and leadership, not management or administration;
- b) Acknowledge that the Chief Executive Officer – in accordance with the provisions of the Act, is responsible for Council staff;
- c) Acknowledge that they have no capacity to individually direct members of staff to carry out particular functions, or exercise powers or discretions in any particular way;
- d) Refrain from using their position to improperly influence members of staff in their duties or functions or to gain an advantage for themselves or others;
- e) Respect the role of Council staff and treat them in a way that engenders mutual respect at all times; and
- f) Act with courtesy and respect towards Council staff and not condone or practice intimidatory behaviour.
- g) Comply with the Chief Executive Officer's Councillor/Council staff interaction protocol of referring Councillor requests/issues through General Managers and Managers and Customer Liaison Officer.

6. THE MAYOR

The Mayor is directly elected to represent the municipal district.

Section 73AA of the Act provides that the functions of the Mayor include –

- a) Providing guidance to Councillors about what is expected of a Councillor including in relation to the statutory role of a Councillor, and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors
- b) Acting as the principal spokesperson for Council
- c) Supporting good working relations between Councillors
- d) Carrying out the civic and ceremonial duties of the office of Mayor.

In general terms the principle areas of responsibility of the Mayor are –

- a) To provide leadership and represent, support and promote the businesses and people of the municipality;
- b) To facilitate the setting of the strategic direction and goals for the municipality
- c) To establish and maintain inter-governmental relationships at Regional, State and Federal levels and private sector organisations
- d) To act as the key spokesperson for Council;
- e) To generate community cohesion and inclusiveness and advocate on behalf of community programs, needs and wellbeing
- f) To promote high standards of democratic and internal governance
- g) To preside efficiently, firmly and fairly over Council meetings
- h) To represent Council at key ceremonial and social occasions.

7. COMMUNITY ENGAGEMENT

One of the City's values in the Council Plan is ensuring its residents are both sufficiently informed and able to contribute to Council's decision making process.

As representatives of the community, Councillors need to be responsive to community views and to adequately communicate the attitudes and decisions of the Council. 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. Councillors are entitled to present their own views, but in doing so, acknowledge that:

- a) As a member of the Council, there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
- b) An overriding objective ought to be to communicate a balanced view to achieve an outcome that presents the Council as effective and cohesive;
- c) Should the media or other members of the public have obtained confidential Council information, Councillors should make no public comment; and
- d) The Mayor is to speak to the media and others on behalf of the Council to convey Council's official position on matters and/or issues before Council and in accordance with Council's media relations policy. (Refer to Appendix H of this Guide).

8. THE COUNCILLOR AS APPOINTED DELEGATE

As part of their representative role, Councillors may be elected or appointed to represent the Council on external organisations. Some appointments may be to other government committees or they may be as a community representative on a particular group.

It is important that Councillors:

- a) Clearly understand the basis of their appointment;
- b) Provide regular reports to the Council on the activities of the organisation; and
- c) Make formal reports to the Council where they are acting as delegate of the Council to that external body.

9. DISCLOSURE OF CONFLICTS OF INTERESTS

Councillors, Committee members and members of the Audit Committee will comply with all the provisions of the Act in regard to conflicts of interest, whether of a direct or indirect nature.

If a Councillor or member considers that he or she has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or a special committee, he or she will comply with the Act's disclosure obligations immediately before the matter is considered.

If a Councillor or member has a conflict of interest in a matter he or she will comply with the requirements of the Act and ensure he or she does not move or second the motion and that he or she leaves the room in which the meeting is being held immediately following the conflict of interest being disclosed.

In addition:

- a) Councillors and members will give early consideration to each matter to be considered by the Council, or special committee of which he or she is a member, to ascertain if they have a conflict of interest; and
- b) Councillors and members recognise that, while they may seek advice about a possible conflict of interest, the **legal onus rests entirely with each Councillor or member**;

10. ASSEMBLIES OF COUNCILLORS

The definition of an assembly of Councillors is:

Section 3 (Definitions)

"Assembly of Councillors (however titled) means a meeting of an advisory committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be:

- a) The subject of a decision of the Council; or*
- b) Subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee:*

But does not include a meeting of the Council, a Special Committee of the Council, an Audit Committee established under section 139, a club, association, peak body, political party or other organisation".

The disclosure of conflict of interest provisions also applies to assemblies of Councillors. Section 80A (1) of the Act provides:

1. At an assembly of Councillors, the Chief Executive Officer must ensure that a written record is kept of:
 - a) The names of all Councillors and members of Council staff attending;
 - b) The matters considered;
 - c) Any conflict of interest disclosures made by a Councillor attending under subsection 3; and
 - d) Whether a Councillor who has disclosed a conflict of interest as required by subsection 3 leaves the assembly.

2. The Chief Executive Officer must ensure that the written record of an assembly of Councillors is, as soon as practicable reported at an ordinary meeting of Council and incorporated in the minutes of that Council meeting.
3. If a Councillor attending an assembly of Councillors knows, or would reasonably be expected to know, that a matter being considered by the assembly is a matter that, were the matter to be considered and decided by Council, the Councillor would have to disclose a conflict of interest under section 79, the Councillor must, at the time set out in subsection (4), disclose to the assembly that he or she has a conflict of interest and leave the assembly whilst the matter is being considered by the assembly.

Penalty: 120 penalty units.

4. A Councillor must disclose the conflict of interest either:
 - a) Immediately before the matter in relation to which the Councillor has a conflict of interest is considered; or
 - b) If the Councillor realises that he or she has a conflict of interest after consideration of the matter has begun, as soon as the Councillor becomes aware that he or she has a conflict of interest.

11. MANAGING CONFIDENTIAL INFORMATION

While one of the values in the Council Plan is openness and accountability, Councillors and members in their decision making process are privy to information which at times may be confidential. Under this Guide, reference to confidential information includes sensitive matters discussed at briefings of Councillors and other assemblies of Councillors.

Councillors and members will:

- a) Be aware that information of a confidential nature must not be communicated until it is no longer treated as confidential;
- b) Be aware that information relating to decisions of the Council and a Special Committee is to only be communicated in an official capacity by a designated officer of the Council by the CEO;
- c) Be careful that information concerning adopted policies, procedures and decisions of the Council and the Special Committee is conveyed accurately;
- d) Be aware that they are only entitled to access information which is relevant to a matter before the Council or Special Committee or likely to come before the Council or Special Committee;
- e) Be prudent in the use of information that they acquire in their role as a Councillor or member;
- f) Be aware of any specific policies that the Council has on the use of Council information;
- g) Ensure that information is not used in a way that can cause detriment to the Council or any other person;
- h) Be aware that unauthorised disclosure of Council information, including misuse of intellectual property must not occur;
- i) Be aware that improper use or release of confidential information will result in a contravention section 77 of the Act, with an associated penalty of up to 120 penalty units; and
- j) Recognise that the requirements of the *Privacy and Data Protection Act 2014* regarding access, use and disclosure of personal information also apply to them as individuals.

Councillors and members need to ensure they are thoroughly familiar with the provisions of section 77 of the Act (refer Appendix C) which defines *confidential information*, and with the relevant provisions of the *Privacy and Data Protection Act 2014*.

Also attached as Appendix D is the summary of the Information Privacy Principles (IPPs) which are contained within the Privacy and Data Protection Act 2014, by which Council is required to adhere. Appendix E includes the associated Councillor access to Council files protocol for the City of Whitehorse

12. REIMBURSEMENT OF OUT OF POCKET EXPENSES

Council policy, 'Councillor Entitlements and Reimbursement of Expenses' (Appendix F) sets out the out of pocket expenses which will be reimbursed to Councillors pursuant to Section 75 of the Act. The policy also clarifies the approval process for the reimbursement of out of pocket expenses incurred by a Councillor in undertaking his or her official duties.

In addition, Section 75A of the Act provides that:

"A council may reimburse members of council committees for necessary out-of-pocket expenses incurred while performing duties as a committee member".

Accordingly, this part of the Guide also applies to members.

Councillors and members must ensure that:

- a) Council policy in regard to the claiming of out of pocket expenses is complied with; and
- b) Only claims for expenses incurred while undertaking official duties as a Councillor or member acting on behalf of the Council are submitted for reimbursement.

13. CONFERENCE ATTENDANCE AND TRAVEL BY COUNCILLORS

Council policy, 'Conference Attendance and Travel by Councillors' (Appendix G) details the approval, expense payments and reporting requirements applicable to each Councillor wishing to attend a conference. If the conference is interstate or overseas, details must be provided within 14 days of conclusion of the travel for inclusion in the register giving details of all such travel by either Councillors or officers. Councillors should familiarise themselves with this policy and ensure compliance with all aspects.

14. GIFTS, FAVOURS & HOSPITALITY

Part of the role of Councillor requires attendance at functions, receptions and visits. This may involve meeting or hosting people from different cultures. A Councillor needs to be aware that:

- a) He or she should not accept directly or indirectly any fee, gift or benefit for themselves, family member or for any other person or body for anything done or action taken in pursuit of their Councillor duties; and
- b) Gifts presented to an individual in a public forum should be regarded as a gift to the Council and should be accepted accordingly in a speech (followed by a letter) of thanks on behalf of the Council, making it clear the gift is being accepted to become Council property and not a possession of the individual. Gifts should be handed to the Chief Executive Officer who will decide where these gifts should best be displayed.

In some situations it may be offensive to refuse the offer of a gift, particularly where it is of moderate value.

The gift may have cultural significance and/or be intended as an expression of appreciation. An example would be identical gifts given to all Councillors and senior staff by visitors from the Council's Sister City of Matsudo, where expressing friendship is primary, and the value of the gift is secondary: such gifts may be accepted if they are of a token, promotional or advertising nature given to all present at a function, where there is clearly no suggestion of personal obligation.

Councillors should exercise judgement and only accept gifts on behalf of the Council that are appropriate to the circumstance.

The Council has a supply of corporate gifts which are to be issued by the Mayor and/or the Chief Executive Officer as appropriate.

Section 78C links an “applicable gift” (as defined) and a Councillor with an “indirect interest” (also defined), the gift disclosure threshold is also defined to mean “\$500 or a higher amount or value prescribed by the regulations”. Copies of relevant sections of the Act are provided in Appendix A

15. USE OF COUNCIL PROVIDED RESOURCES – (NORMAL OPERATION)

Council policy, ‘Councillor Entitlements and Reimbursement of Expenses’ (Appendix F) details the facilities and support that will be provided to Councillors and members to assist them to undertake their role. Councillors will familiarise themselves with any changes required during election periods to ensure there is no exposure to the perception that Council resources are used for electoral purposes.

Councillors must ensure that:

- a) Council policy in regard to the provision of facilities and support is complied with;
- b) Council assets, including goods, money, intellectual property, computer, mobile telephones, telephone lines provided by the Council, fax machines and the services of Council employees or contractors, must not be used for personal gain. This includes transcription of computer software programs regardless of whether or not the programs are protected by copyright and other intellectual property of the Council; (please also refer to Policy on Councillor Entitlements and Reimbursement of Expenses Appendix F)
- c) Council property and merchandise is not removed from Council premises without authorisation. If, for business reasons, removal is necessary, then appropriate approvals must be first obtained;
- d) Council assets while in their control are maintained and secured and that such assets are not misused;
- e) Council resources are economically and effectively used and only in the course of official duties; and
- f) Use of Council provided computer equipment is in accordance with the IT Security Policy WCC-ITS09 and the E mail and Internet Usage Policy WCC-EIU09.

16. ACCESS TO COUNCIL BUILDINGS

Meeting rooms and facilities for Councillors are provided in the Civic Suite. An office for the Mayor is provided in the Executive area of the Civic Centre.

In their role, Councillors are entitled to full access to the Councillor Lounge located in the Civic Suite. Other rooms in the complex are used during the day and should a Councillor require use, a booking needs to be made via the Whitehorse Centre. If such a booking is requested at short notice it needs to be understood the room may have already been allocated, and the Councillor may be requested to select another room or another date.

Councillors have access to other Council buildings and facilities at the same level as any other member of the public, during business hours and on payment of the required fee or charge, if the entry is for personal use.

Councillors will be issued with computerised access passes to the Civic Offices to allow them to pass through the foyer to the office area during business hours only, and to the Civic Suite at all times.

17. GUIDE MONITORING AND COMPLIANCE RESPONSIBILITIES

Assistance and advice is available from the Chief Executive Officer and Manager of Civic Services

18. PROTECTED DISCLOSURE ACT 2012

The City of Whitehorse is committed to the aims and objectives of the *Protected Disclosure Act 2012*. It does not accept improper conduct by its Councillors, or staff, nor reprisals against those who come forward to disclose such conduct.

A Councillor who knows or has good reasons to suspect any fraud, corrupt, criminal or unethical conduct of another Councillor should be free to report such behaviour.

Clear guidelines and procedures are in place to facilitate disclosure in the public interests. Councillors should be familiar with these guidelines which are available at each Council workplace and appear on Council's website.

19. COUNCILLOR POLITICAL ACTIVITY

It is acknowledged that it is a democratic right of Councillors to seek political or other office in pursuit of their personal ambitions. Councillors, in the pursuit of their goals, will abide by the requirements and provisions of the Act relating to their Oath of Office, Councillor Conduct Principles, misuse of position and the overall obligations in the Councillor Code of Conduct. This requires Councillors to act impartially and in the best interests of the community to avoid conflicts between public duty and personal interests, not to obtain a personal advantage for themselves or others and not to misuse public resources. The positive public image of and confidence in the office of Councillor is to be secured and preserved at all times.

In the event that there is a conflict of interest between public duty and personal interests, Councillors must disclose that conflict to the Mayor and to the Council. If a Councillor formally nominates (with the Electoral Commission) for a Federal or State parliamentary election, leave of absence should be sought by the Councillor and considered by Council upon such nomination being accepted by the Australian Electoral Commission.

20. PENALTIES

In many instances, the Act provides that a breach of the Act is an offence and subject to a penalty. The amount of the penalty is described as a "penalty unit".

The penalties prescribed under the Act for contraventions such as disclosure of confidential information and misuse of position of Councillor can be found in Appendices A and B.

21. SANCTIONS

Following the conduct of an internal resolution procedure wherein a Councillor has been found to have contravened the Code, Council may give any or all of the following written directions to a Councillor:

- a) Direct the Councillor to make an apology in a form or manner specified by Council;
- b) Direct the Councillor to not attend up to, but not exceeding, 2 meetings of Council; and
- c) Direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by Council, the Councillor –
 - i. Be removed from any position where the Councillor represents Council; and/or
 - ii. To not chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.

22. HUMAN RIGHTS CHARTER COMPLIANCE

This Guide has been reviewed for Human Rights Charter compliance.

23. INTERNAL RESOLUTION PROCEDURE

On occasion, there will arise disputes between Councillors which result from an alleged contravention of the Code. Accordingly, such disputes may require resolution outside the Council Chamber.

Before commencing the formal internal resolution procedure specified in the Code, the Councillors, who are parties to an alleged contravention of the Code will endeavour to resolve the matter informally, in a courteous and respectful manner whilst recognising that the Councillor against whom the alleged contravention has been made was elected to represent the best interests of the community. The parties may seek assistance of any third party in resolving the alleged contravention.

APPENDIX A COUNCILLOR CONDUCT PROVISIONS UNDER THE ACT

76B Primary principle of Councillor Conduct

It is a primary principle of Councillor Conduct that, in performing the role of a Councillor, a Councillor must:

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

Section 76BA General Councillor Conduct principles

In addition to acting in accordance with the primary principle of Councillor Conduct specified in section 76B, in performing the role of a Councillor, a Councillor must:

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

76D Misuse of position

- 1. A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position:
 - a) To gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
 - b) To cause, or attempt to cause, detriment to the Council or another person.

Penalty: 600 penalty units or imprisonment for 5 years, or both.

- 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 special committee include—
 - a) Making improper use of information acquired as a result of the position he or she held or holds; or
 - b) Disclosing information that is confidential information within the meaning of section 77(2); or
 - c) Directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or
 - d) Exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or
 - e) Using public funds or resources in a manner that is improper or unauthorised; or
 - f) Failing to disclose a conflict of interest as required under this Division.

76E Improper direction and improper influence

- 2 A Councillor must not 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 special committee, including advice in a report to the Council or special committee.

Penalty: 120 penalty units

- 2A If an application for a Councillor Conduct Panel to make a finding of serious misconduct by a Councillor has been made in respect of conduct in contravention of subsection (2), the Councillor must not be charged with an offence against that subsection in respect of the same conduct unless—
- a) The Councillor Conduct Panel application is withdrawn; or
 - b) The Chief Municipal Inspector requires the Councillor Conduct Panel to suspend or stop consideration of the matter under section 81P; or
 - c) Before the Councillor Conduct Panel makes a determination, the Councillor ceases to be a Councillor; or
 - d) The matter or behaviour that is the subject of an application for a finding of serious misconduct has been referred to another law enforcement agency.
- 2B If a Councillor is charged with an offence against subsection (2), an application for a Councillor Conduct Panel to make a finding of serious misconduct by the Councillor must not be made for the same conduct in respect of which the Councillor has been charged.
- 3 This section does not apply to a decision of the Council or a special committee that is made within the powers, duties or functions conferred under this or any other Act.

77A Direct and indirect interests

1. A relevant person has a conflict of interest in respect of a matter if the relevant person has a direct interest or indirect interest in the matter.
2. A relevant person has a direct interest in a matter if the relevant person has an interest of a kind described in section 77B.
3. A relevant person has an indirect interest in a matter if the relevant person has:
 - a) A close association as specified in section 78; or
 - b) An indirect financial interest as specified in section 78A; or
 - c) A conflicting duty as specified in section 78B; or
 - d) Received an applicable gift as specified in section 78C; or
 - e) Become an interested party as specified in section 78D, or
 - f) A residential amenity that may be altered as specified in section 78E.

4. A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest of the relevant person is so remote or insignificant that the direct interest or indirect interest could not reasonably be regarded as capable of influencing any actions or decisions of the relevant person in relation to the matter.
5. A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest the relevant person holds:
 - a) Is held as a resident, ratepayer or voter and does not exceed the interests generally held by other residents, ratepayers or voters; or
 - b) Is held in common with a large class of persons and does not exceed the interests generally held by the class of persons.
6. A relevant person does not have a conflict of interest in a matter if the relevant person:
 - a) Does not know the circumstances that give rise to the conflict of interest; and
 - b) Would not reasonably be expected to know the circumstances that give rise to the conflict of interest.

77B Direct interest

1. A person has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way.
2. Without limiting subsection (1), a person has a direct interest in a matter if:
 - a) There is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms if the matter is decided in a particular way;
 - b) The person has, or the person together with a member or members of the person's family have, a controlling interest in a company or other body that has a direct interest in the matter.
3. A person who has a membership in a club or organisation that has a direct interest in a matter:
 - a) Does not, by reason of that membership, have a direct interest in the matter under subsection (1); and
 - b) Does not have an indirect interest in the matter, by reason of that membership, unless the person has an indirect interest in the matter under section 78A, 78B or 78C.
4. In subsection (2), **controlling interest** has the same meaning as it has in section 72(2) of the **Payroll Tax Act 2007**.

78 Indirect interest by close association

1. In this section:

daughter means a biological daughter, step-daughter, adopted daughter, or female child for whom the person has custodial responsibilities;

direct relative means the spouse, domestic partner, son, daughter, mother, father, brother or sister of the person;

domestic partner of a person means:

- a) A person who is in a registered relationship with the person; or
- b) An adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person:
 - i. For fee or reward; or
 - ii. On behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

family member means:

- a) A spouse or domestic partner of the person; or
- b) A son, daughter, mother, father, brother or sister that regularly resides with the person;

relative means:

- a) A direct relative of the person;
- b) A direct relative of a person who is the direct relative of the person;

son means a biological son, step son, adopted son or male child for which the person has custodial responsibilities.

- 2. A person has an indirect interest by close association in a matter if:
 - a) A family member of the person has a direct interest or an indirect interest in a matter; or
 - b) A relative of the person has a direct interest in a matter; or
 - c) A member of the person's household has a direct interest in a matter.
- 3. For the purposes of the definition of **domestic partner** in subsection (1):
 - a) **Registered relationship** has the same meaning as in the **Relationships Act 2008**; and
 - b) In determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case; and
 - c) A person is not a domestic partner of another person only because they are co-tenants.

78A Indirect Interest that is an Indirect Financial Interest

- 1. A person has an indirect financial interest in a matter if the person is likely to receive a benefit or incur a loss, measurable in monetary terms, as a consequence of a benefit received or loss incurred by another person who has a direct or indirect interest in the matter.
- 2. Without limiting subsection (1), a person has an indirect financial interest that is a conflict of interest if:
 - a) The person has a beneficial interest in shares of a company or other body that has a direct interest in the matter, except in the circumstances specified in subsection (3);
 - b) The person is owed money from another person and that other person has a direct interest in the matter.
- 3. If a person, and family members of the person, hold shares in a company or body that has a direct or indirect interest in a matter with a combined total value that does not exceed \$10 000 and the total value of issued shares of the company or body exceeds \$10 million, the person's indirect financial interest is not a conflict of interest.
- 4. Subsection (2) (b) does not apply if the other person is an authorised deposit-taking institution.
- 5. For the purposes of determining the value of shares under this section, the share value is to be taken from:
 - a) The close of business on the most recent of 30 June or 31 December; or
 - b) If the person has lodged an ordinary return since the most recent of 30 June or 31 December, the close of business on the date the return was submitted.

78B Indirect interest because of conflicting duties

1. A person has an indirect interest in a matter because of a conflicting duty if the person:
 - a) Is a manager or a member of a governing body of a company or body that has a direct interest in a matter;
 - b) Is a partner, consultant, contractor, agent or employee of a person, company or body that has a direct interest in a matter;
 - c) Is a trustee for a person who has a direct interest in a matter.
2. A person has an indirect interest in a matter because of a conflicting duty if the person held a position or role specified in subsection (1) and, in that position or role, dealt with the matter.
3. A person does not have an indirect interest because of a conflicting duty if:
 - a) The person is, or has been, only an employee in the service of the Crown or of a body established by or under any Act for a public purpose and the person has no current or expected responsibilities as that employee in relation to a matter;
 - b) The person only holds a position in a not-for-profit organisation for which the person receives no remuneration and the person was appointed to the relevant special committee of the Council to be a representative of the non-for-profit organisation;
 - b) a. The person only holds a position, with the Council's approval as a representative of the Council, in an organisation for which the person receives no remuneration;
 - c) The person is only a Councillor who holds a position in the Municipal Association of Victoria or in another body that has the purpose of representing the interests of Councils;
 - c) a. The person is only a member of a development assessment committee established under Part 4AA of the Planning and Environment Act 1987;
 - d) The person only holds a position that has been prescribed for the purposes of this section.

Under the Local Government (General) Regulations 2015, Regulation 9 – Indirect interest because of conflicting duties, the following positions are prescribed:

 - a) *A representative of the Council to a Local Government Waste Forum established under the Environment Protection Act 1970;*
 - b) *A director of a Waste and Resource Recovery Group established under the Environment Protection Act 1970;*
 - c) *A member of the Country Fire Authority appointed under section 7 of the Country Fire Authority Act 1958;*
 - d) *In the case of a matter that relates to an application made under the Planning and Environment Act 1987, a member of the governing body of a referral authority that has considered the application under section 56 of that Act.*

78C Indirect Interest Because of Receipt of an Applicable Gift

1. In this section, **applicable gift** means one or more gifts with a total value of, or more than, the gift disclosure threshold (**currently \$500**), received from a person or persons specified in subsection (2) in the 5 years preceding the decision or the exercise of the power, duty or function but does not include:
 - a) Reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee; or
 - b) . A gift, other than an election campaign donation, that was received by the person more than 12 months before the person became a Councillor, a member of Council staff or a member of a special committee.
2. A person has an indirect interest in a matter if the person has received an applicable gift, directly or indirectly, from:
 - a) A person who has a direct interest in the matter; or
 - b) A director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or
 - c) A person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.
3. For the purposes of determining when a person became a Councillor or member of a special committee under subsection (1) (b), if the person is re-elected or reappointed as a Councillor or a member of a special committee, on completion of his or her term of office, the previous term of office served by that person as a Councillor or member of a special committee must be counted as continuous service with any service completed by the person after the person's re-election or reappointment.

78D Indirect Interest as a Consequence of Becoming an Interested Party

A person has an indirect interest in a matter if the person has become an interested party in the matter by initiating civil proceedings in relation to the matter or becoming a party to civil proceedings in relation to the matter.

78E Indirect Interest Because of Impact on Residential Amenity

A person has an indirect interest in a matter if there is a reasonable likelihood that the residential amenity of the person will be altered if the matter is decided in a particular way.

79 Disclosure of Conflict of Interest

1. If a Councillor or member of a special committee has a conflict of interest in a matter which is to be considered or discussed at a meeting of the Council or the special committee, the Councillor or member must, if he or she is attending the meeting, disclose the conflict of interest in accordance with subsection (2).
2. A Councillor or member of a special committee who has a conflict of interest and is attending the meeting of the Council or special committee must make a full disclosure of that interest:
 - a) By either:
 - i. Advising the Council or special committee at the meeting of the details required under paragraphs (b) and (c) immediately before the matter is considered at the meeting; or
 - ii. Advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and
 - b) Classifying the type of interest that has given rise to the conflict as either:
 - i A direct interest; or
 - ii An indirect interest and specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, 78D or 78E; and
 - c) Describing the nature of the interest; and
 - d) If the Councillor or member advised the Chief Executive Officer of the details under paragraph (a) (ii), the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.
3. For the purposes of section 79(2) (a) (i), if a Councillor or member of a special committee has a conflict of interest in two or more matters which are to be considered or discussed consecutively at a meeting of the Council or the special committee, the Councillor or member may make a full disclosure of each of those interests immediately before the first matter is considered at the meeting.

***** (4 Repealed) *****
5. The Chief Executive Officer must:
 - a) Keep written disclosures given to him or her under this section in a secure place for 3 years after the date the Councillor or member of a special committee who made the disclosure ceases to be Councillor or member of a committee; and
 - b) Destroy the written disclosure when the 3 year period referred to in paragraph (a) has expired.
6. While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a special committee must:
 - a) Leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and
 - b) Remain outside the room and any gallery or other area in view or hearing of the room.

7. The Mayor or the Chairperson of the special committee must cause the Councillor or member of a special committee to be notified that he or she may return to the room after:
 - a) Consideration of the matter; and
 - b) All votes on the matter.
8. If a Councillor or member of a special committee discloses a conflict of interest, the Chief Executive Officer or the Chairperson must record in the minutes of the meeting:
 - a) The declaration of the conflict of interest; and
 - b) The classification of the interest that has given rise to the conflict, and if the Councillor or member has disclosed the nature of the interest to the meeting, the nature of the interest.
9. Unless section 80 applies, a Councillor or member of a special committee who fails to comply with this section is guilty of an offence and liable to a fine not exceeding 120 penalty units.

79B Conflicting Personal Interest

1. This section does not apply to a Councillor or member of a special committee who has a conflict of interest in the matter.
2. If a Councillor or a member of a special committee considers that he or she has a personal interest in relation to a matter that is in conflict with his or her public duty in relation to the matter, the Councillor or member may, immediately before the matter is considered at the relevant meeting, apply to the Council or special committee to be exempted from voting on the matter.
3. If a Councillor or member of a special committee makes an application under subsection (2), he or she must give reasons in support of the application.
4. A Council or special committee may consent to an application made under subsection (2) and must not unreasonably withhold consent.
5. If a Council or special committee consents to an application under subsection (4), sections 79(6), 79(7), 79(8) and 79(9) apply as if the personal interest that is the subject of an application under subsection (2) were a conflict of interest specified under this Act.

79C Certain Situations where Councillor taken to not have a Conflict of Interest

1. A Councillor is taken to not have a conflict of interest for the purposes of this Division if the matter only relates to:
 - a) The nomination or appointment by the Council of the Councillor to a position for which the Councillor will not be remunerated;
 - b) The election of the Mayor under section 71 or the appointment of an acting Mayor under section 73(3);
 - c) A decision in relation to the payment of allowances to the Mayor or Councillors under section 74 or 74C(2);
 - d) The adoption of a policy in relation to the reimbursement of expenses under section 75A;
 - e) The adoption of a Councillor Code of Conduct under section 76C;
 - f) An application to a Councillor Conduct Panel or VCAT under Division 1B;
 - g) An application for an exemption under section 80;
 - h) The appointment of members and Chairpersons of special committees;
 - i) A resolution that has the effect of making the Councillors eligible or ineligible for the superannuation guarantee under taxation legislation;

- j) The conduct of a Councillor with respect to:
 - i. An internal dispute that involves the Councillor;
 - ii. An allegation of misconduct or serious misconduct (as defined in section 81A) by the Councillor;
 - k) A submission provided to an electoral representation review under section 219F;
 - l) A submission provided for the purposes of a subdivision review conducted under section 219N.
2. If a budget or revised budget to be approved by a Council includes funding for a matter in respect of which a Councillor has a conflict of interest the Councillor is taken to not have a conflict of interest for the purposes of approving the budget or revised budget if:
- a) The Council approved the matter and the proposed funding previously; and
 - b) The Councillor disclosed the nature of the conflict of interest under this Division when the decision in respect of the funding was originally considered and made.
3. If a Council Plan to be approved by a Council includes a matter in respect of which a Councillor has a conflict of interest, the Councillor is taken to not have a conflict of interest for the purposes of approving the Council Plan if—
- a) The Council previously approved the matter for inclusion in the Council Plan; and
 - b) The Councillor disclosed the nature of the conflict of interest under section 79 when the decision in respect of the matter was previously considered and made.
4. If a Councillor with a conflict of interest referred to in subsection (2) or (3) notifies the Mayor or Chairperson prior to the consideration of the budget, revised budget or Council Plan of the conflict of interest, the Mayor or Chairperson must allow a prior motion to be put that the matter or funding be considered for inclusion in the budget, revised budget or Council Plan.

79D Person may make submission despite conflict of interest

- 1. Subject to subsection (2), a relevant person who has a conflict of interest in a matter and who has made a written submission under section 223 in respect of the matter, may present his or her submission under section 223(1) (b) to the Council or committee of the Council.
- 2. The relevant person who has a conflict of interest in a matter must not be at the meeting of the Council or committee of the Council any longer than is required for the person to be heard in support of the person's written submission.

80 Exemption by Minister

1AA. Despite section 79, the Minister may, of his or her own motion, exempt in writing a person, other than a Councillor, from any or all of the provisions of section 79 for an unlimited or specified period, subject to any conditions the Minister thinks fit if the Minister is satisfied that:

- a) Extraordinary circumstances exist that justify the exemption of the person; and
- b) It is in the public interest to exempt the person.

1AB. In exempting a person under subsection (1AA), the Minister must have regard to the extent of the conflict of interest of the person.

1. Despite section 79:
 - a) A Council may apply, in writing, to the Minister for an exemption of any Councillor from any or all of the provisions of section 79 if the Council is of the opinion that the transaction of any Council or special committee business would be impeded because of the number of Councillors affected by section 79;
 - b) A Chief Executive Officer of a Council may apply, in writing, to the Minister, after receiving written declarations of conflicts of interest from a majority of Councillors, for an exemption of those Councillors from any or all of the provisions of section 79.
- 1A. After reviewing an application received from a Council or a Chief Executive Officer, the Minister may require the Council or Chief Executive Officer to provide additional information in respect of the application, including copies of the written declarations of conflicts of interests made by Councillors under section 79.
- 1B. In considering an application made by a Council or Chief Executive Officer, the Minister must have regard to:
 - a) The extent of the conflicts of interest of the Councillors; and
 - b) The public interest.
2. The Minister may, after considering an application under subsection (1B), exempt in writing a Councillor from any or all of the provisions of section 79 for an unlimited or specified period, subject to any conditions the Minister thinks fit.
3. The Minister may revoke an exemption.

81AB Sanctions for contravention of Councillor Code of Conduct

1. If, after an internal resolution procedure has been conducted, it is found that a Councillor has contravened the Councillor Code of Conduct, the Council may give any or all of the following written directions to the Councillor—
 - a) Direct the Councillor to make an apology in a form or manner specified by the Council;
 - b) Direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Council;
 - c) Direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by the Council, the Councillor—
 - i. Be removed from any position where the Councillor represents the Council; and
 - ii. To not chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.
2. A direction given under subsection (1) (b) must be in respect of the next scheduled meetings of the Council after the direction is made.

APPENDIX B MEETING PROCEDURE PROTOCOL

PRACTICES	EXPLANATION
Go through the Chair	Indicate you wish to speak to the Chair and speak through the Chair (a simple raise of hand to indicate and get eye contact acknowledgement from Chair). The Chair will indicate when it is your turn to speak.
Be respectful	Be respectful of each person's right to speak and to be spoken about with respect. Neither insults nor defamatory comments will be tolerated. Respectful language is expected at all times
Your right to be heard	Everyone has the right to speak without interruption and their contributions heard
Listen	Actively listen when others are speaking and avoid distractions

APPENDIX C CONFIDENTIAL INFORMATION

Recent legislative amendments to the *Local Government Act 1989 (Act)* have attributed significant penalties to the disclosure by a Councillor or Special Committee member of confidential information. It is important that each Councillor consider the amendments to these provisions (including the instances where confidential information may be disclosed) and familiarise themselves with the definition of 'confidential information' which is contained within the Act –

77. Confidential information

1. A person who is, or has been, a Councillor or a member of a special committee, must not disclose information that the person knows, or should reasonably know, is confidential information.
Penalty: 120 penalty units
- 1A A person who is, or has been, a Councillor or a member of a special committee, may disclose information that the person knows is confidential information in the following circumstances—
 - a) For the purposes of any legal proceedings arising out of this Act;
 - b) To a court or tribunal in the course of legal proceedings;
 - c) Pursuant to an order of a court or tribunal;
 - d) To the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;
 - e) To a Councillor Conduct Panel in the course of a hearing and for the purposes of the hearing;
 - f) To a municipal monitor to the extent reasonably required by the municipal monitor;
 - g) To the extent reasonably required for any other law enforcement purposes.
- 1B If an application for a Councillor Conduct Panel to make a finding of serious misconduct by a Councillor has been made in respect of conduct in contravention of subsection (1), the Councillor must not be charged with an offence against that subsection in respect of the same conduct unless—
 - a) The Councillor Conduct Panel application is withdrawn; or
 - b) The Chief Municipal Inspector requires the Councillor Conduct Panel to suspend or stop consideration of the matter under section 81P; or
 - c) Before the Councillor Conduct Panel makes a determination, the Councillor ceases to be a Councillor; or
 - d) The matter or behaviour that is the subject of an application for a finding of serious misconduct has been referred to another law enforcement agency.
- 1C If a Councillor is charged with an offence against subsection (1), an application for a Councillor Conduct Panel to make a finding of serious misconduct by the Councillor must not be made for the same conduct in respect of which the Councillor has been charged.
2. For the purposes of this section, information is **confidential information** if:
 - a) The information was provided to the Council or a special committee in relation to a matter considered by the Council or special committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential; or
 - b) The information has been designated as confidential information by a resolution of the Council or a special committee which specifies the relevant ground or grounds applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential; or
 - c) The information has been designated in writing as confidential information by the Chief Executive Officer specifying the relevant ground or grounds applying under section 89(2) and the Council has not passed a resolution that the information is not confidential.

APPENDIX D INFORMATION PRIVACY PRINCIPLES (IPPs)

The *Privacy and Data Protection Act 2014 (Act)* replaced the now revoked *Privacy Act 2000*, introducing a new state wide privacy framework which fulfils the primary purposes of providing for –

- The responsible collection and handling of personal information in the Victorian public sector; and
- Remedies for interferences with the information privacy of an individual.

In accordance with section 20(1) of the Act, a Council must not do an act, or engage in a practice, that contravenes an IPP in respect of personal information collected, held, managed, used, disclosed or transferred by it.

Accordingly, it is paramount that Councillors familiarise themselves with the IPPs and strictly adhere to them in the discharge of their respective obligations as Councillors.

In summary, the IPPs are as follows:

- **Collection:** Councils must only collect information that is necessary for its functions and activities and the information must only be collected in a manner that is lawful, fair and not unreasonable intrusive. In the collection of personal information, Council must take reasonable steps to ensure that the individual is aware of certain matters including the Council's name and contact details, the reasons for the collection of that information and to whom that information is being disclosed, any relevant legislation and the consequences for failing to provide the requested information.
- **Use and Disclosure:** Council may only use or disclose personal information for the same purpose for which it was collected, or for permitted 'secondary purposes', such as where:
 - The secondary purpose is related to (in the case of sensitive information) the primary purpose of the collection, and the use or disclosure is within the reasonable expectations of the person to whom the information relates; or
 - The person to whom the information relates consents to it;
 - It is required or authorised under law; or
 - It is necessary to lessen or prevent a serious and imminent threat to an individual's life, health, safety or welfare, or a serious threat to public health, public safety, or public welfare.
- **Data Quality:** Council must take reasonable steps to ensure personal information is accurate, complete and up to date.
- **Data Security:** Council must take reasonable steps to protect personal information from misuse, loss, modification, disclosure and unauthorised access. A Council must also take reasonable steps to destroy or de-identify personal information that is no longer required.
- **Openness:** A Council must ensure that its personal information management policies are clearly expressed in a document that will be made available for public inspection upon request of any person.
- **Access and Correction:** Council must provide access to information about an individual on request by that individual except in specified circumstances, and must correct such information on request.
- **Unique Identifiers:** Council must not use unique identifiers unless necessary.
- **Anonymity:** Wherever lawful and practicable, individuals must have the option of not identifying themselves in dealings with Council.
- **Transborder Data Flows:** Council may only transfer personal information outside Victoria in circumstances where it will have appropriate privacy protection.
- **Sensitive Information:** A Council may only collect sensitive information about an individual in instances where consent has been provided, the collection is required by law, the collection is necessary to prevent or lessen a serious and imminent threat to the health or life of a person and the individual is unable to give consent to the collection or the collection is relevant to a legal defence or equitable claim.

APPENDIX E PROTOCOL- COUNCILLOR ACCESS TO COUNCIL FILES AND DOCUMENTATION

The process for handling Councillor requests for access to Council files, documents and information is as follows:

- a) The Councillor enters a request through the Councillor portal specifying the reason for seeking access;
- b) The request is forwarded to the relevant manager, who will consider the request, and consult with relevant officers in determining whether access may be granted;

In doing so, the manager will consider the following:

- i. Does the Councillor have a common law right to access the file? For example, is the file relevant to an issue before, or likely to come before the Council and the representative functions of the Councillor?
- ii. If not, would providing access breach privacy?
 - Does the file contain personal or health information of others?
 - Is the information being disclosed for the same purpose it was collected?
 - Is it related to this purpose and the person would reasonably expect access to be given?
 - Has the person given his/her consent to disclosure?
 - Can any personal or health information be deleted?
- iii. If there is a privacy concern, could the file be made available under FOI or through other legislation?
- c) If it is appropriate to provide access, the manager or his/her delegate will arrange a date and time for inspection. The Councillor must not remove any documents but may request copies, which request will be considered by the manager. Details of the inspection will be entered into the Councillor request management system;
- d) If access cannot be provided, the manager will advise the Councillor accordingly and provide reasons. The Councillor may ask the manager to reconsider his/her decision. The manager will then consult with the Chief Executive Officer and respond to the Councillor with the final decision;
- e) If the information sought relates to a topical issue which is sensitive and/or controversial and would impact on all Councillors, the manager will consult with the Chief Executive Officer in regard to the information being given to all Councillors; and
- f) Councillors must not make improper use of information or breach privacy or confidentiality in relation to information provided to them.

APPENDIX F COUNCILLOR ENTITLEMENTS AND REIMBURSEMENT OF EXPENSES POLICY

PURPOSE

1. To identify Councillor entitlements and reimbursement of expenses.
2. To clarify the approval process for reimbursement of expenses incurred by Councillors while undertaking their duties.

OBJECTIVES

3. To establish the entitlement for a Councillor to have necessary out of pocket expenses incurred as a result of being a Councillor, either reimbursed or paid direct by Council.
4. To identify facilities and support that will be provided to Councillors to assist them to undertake their role.
5. The basic test to determine whether or not an expense is lawful/lawfully incurred is whether the expenditure is 'necessary or appropriate for the purposes of achieving the objectives of Council having regard to any relevant Act, regulations, Ministerial guidelines or Council Policies.'

Where:

- This policy is satisfied the expense is 'necessary' the expense may be paid direct by Council;
- A Councillor has incurred a 'necessary' out of pocket expense they may be reimbursed by Council.

EXPENSES

6. Section 75 of the Local Government Act 1989 specifies that a Council must reimburse a Councillor for expenses if the Councillor:
 - Applies in writing to Council for the reimbursement of expenses; and
 - Establishes in the application to Council that the expenses were reasonable bona fide Councillor out- of- pocket expenses incurred while performing duties as a Councillor.
7. Any claims for expense reimbursement must be justified by Councillors and should be in writing supported by receipt or other suitable documentation.
8. Council will not reimburse Councillors for any infringements incurred for road traffic or parking violations.

SCOPE

9. The facilities and services, as identified in this policy are not available for use by members of a Councillor's family. (The Chief Executive Officer (CEO) has discretion to consider an application, if proven that the use is directly related to some aspect of a Councillor's official role or civic duty.)
10. Claims for facilities and expenses other than those expressed in this policy will be subject to a Council resolution. Council policy on Conference Attendance and Travel by Councillors covers conference attendance and interstate/overseas travel.

CIVIC SUPPORT AND EXPENSES

11. Family Care Expenses

- 11.1 “Family Care Expenses” are defined as hourly fees, agency booking fees, reasonable travelling expenses for a carer other than an immediate family member of the Councillor. The care of family members is the responsibility of individual Councillors. However, in certain circumstances Councillors may be able to seek reimbursement for family care expenses. Expenses for bona fide family care services are payable, if claimed, for care of a child, elderly or disabled dependent when a Councillor attends:
- Meetings of the Council or its Committees;
 - Meetings, briefing sessions and civic or ceremonial functions convened by the Mayor or Council;
 - Meetings arising as a result of a Councillor being appointed by the Council to an external body;
 - A meeting, function or other official role as a representative of the Mayor or the Council;
- 11.2 Childcare costs are not eligible for reimbursement if paid for a service provided by a person who is immediate family (eg partner, mother/father, sister/brother or sister in law/brother in law) or normally or regularly lives with the Councillor.
- 11.3 For the purposes of this policy, a child shall be defined as up to, but not including 16 years of age.
- 11.4 Claims for family care expenses are to be submitted on a monthly basis. Each family care expense claimed shall be substantiated by a receipt from the caregiver showing the dates and times care was provided, and the Councillor shall show why the care was needed on each occasion.

12. Facilities and Expenses for Councillors with Disabilities

- 12.1 For any Councillor with a disability, the CEO should assess and approve the reasonable support required by way of additional facilities and expenses in order to allow that Councillor to perform his or her civic duties.

13. Communication Equipment

- 13.1 Each Councillor is entitled to the following home/workplace facilities and may choose to be allocated:
- Smart mobile telephone, a laptop/notebook, mobile wireless internet, email access and home printer
- 13.2 The Council will pay all connection fees, rental charges and all Council business call charges, with accounts being sent directly to Council. In the case of mobile phones, it will be at Council’s discretion whether to repair or replace damaged phones. If a phone is lost or stolen, the Councillor should immediately report the theft or loss to the Civic Services department, and to the police if the loss or theft is discovered outside working hours.

13.3 Councillor issued mobile devices are to be used for related Council business activities but it is accepted that, on occasions, reasonable incidental personal calls will be made. A telephone account summary will be provided on a monthly basis at the end of each month for each individual Councillor and copies of telephone accounts will be available upon request.

13.4 The equipment remains the property of the Council and is recorded on Council's Assets Register and must be returned at the end of a Councillor's term of office. Councillors are expected to adhere to Council's IT Policies as adopted from time to time including but not limited to IT security, Email & Internet usage and mobile devices.

14. 14 Insurance

14.1 Councillors are covered under the following Council insurance policies on a 24-hour basis, while discharging the duties of civic office including attendance at meetings of external bodies as Council's representatives:

- Public liability
- Professional indemnity
- Councillors and Officers liability
- Personal Accident (accompanying partners are also covered)

14.2 The Council will pay the insurance policy excess in respect of any claim made against a Councillor arising from Council business where any claim is accepted by Council's insurers, whether defended or not.

15. 15 Mail

15.1 Each Councillor will be entitled to post, through the Council mailing system and utilising Council supplied stationery, any items which relate to Council business and annual corporate Christmas Cards. No type of election material is to be posted at Council expense by Councillors.

16. 16 Room Use

16.1 Meeting rooms owned and controlled by the Council can be booked by Councillors free of charge for meetings, interviews and other functions associated with their role as Councillors (other than for election purposes). In the event Council does not have a suitable facility in the area, such as forward meetings, Council will meet the reasonable costs of a suitable venue but the Councillor takes responsibility for leaving the room in accordance with any requirements of the venue owner, if there are no Council staff at the meeting.

16.2 Free use of meeting rooms for use by Councillors does not include community or other groups who would be subject to Council's policy on the use of Council facilities. Community and other organisations where Councillors are nominated as Council representative or delegates to these groups are not entitled to free use of Council facilities.

17. Stationery and Secretarial Support

17.1 Councillors will be supplied with:

- Christmas Cards and envelopes of standard size
- Business cards
- A diary
- Supplies as required of personalised Council letterhead
- Other stationery as appropriate

17.2 Council stationery is not to be converted or modified in any way and may only be used for carrying out the functions of the civic office (not to be used for election purposes).

17.3 Secretarial support will be made available by the Chief Executive Officer for Councillors to assist them in responding to correspondence and inquiries as part of their official duties as a Councillor.

18. Building Access and Parking

18.1 Each Councillor will receive a computerised key allowing access to the Civic Suite at the Whitehorse Civic Centre, 379-397 Whitehorse Road Nunawading. Loss or theft of this key must be reported immediately to the Civic Services department.

18.2 Designated parking spaces for Councillors will be available at the Whitehorse Civic Centre.

19. Name Badge

19.1 Each Councillor and his/her partner will be provided with a name badge for use while on Council business.

20. Functions

20.1 The purchase of a City of Whitehorse table/s at functions shall be first approved by the Manager of Civic Services in consultation with the Chief Executive Officer.

20.2 Any invitations to attend an event or function (which are related and relevant to the "duties of a Councillor" as specified in Section 75 (2) of the Local Government Act and objective 5), must be received in writing (ie formal invitation by name, from the event organiser) in order for Council to cover this expense.

20.3 Councillors shall be reimbursed for function, dinner and lunch costs for his/her partner where the Councillor and partner have been specifically invited to the event as representatives of the Council (in accordance with clauses 9 and 20.2. A partner or guest may accompany a Councillor to functions where other attendees are generally accompanied by partners. The functions will generally involve luncheons and evening activities and be of a nature where other attendees will be accompanied by partners.

21. Facilities for the Mayor

21.1 Each Mayor will be provided with:

- A perpetual Mayoral medallion for use at official functions and at the end of the Mayoral term will be presented with a replica medallion in recognition of their services.
- A fully maintained vehicle will be provided in accordance with the requirements and provisions of Council's Fleet and Vehicle Safety policy.
- A mobile phone device with appropriate handsfree phone unit fitted in the Mayoral car.
- Secretarial support via the Executive Assistant Mayor and Councillors to assist the Mayor and Mayoral Partner in performing their official duties.
- Office accommodation and associated equipment within the Whitehorse Civic Centre.

21.2 This policy covers travel expenses within Victoria. A separate policy exists covering conference attendance and interstate/overseas travel by Councillors.

TRAVEL EXPENSES

22. Private Vehicle Use

22.1 Councillors using their private vehicles outside of the municipality to carry out their official Council functions will be reimbursed reasonable expenses as per the applicable kilometres rate applicable where such costs are incurred as part of their official duties.

22.2 Travel within the municipality is deemed to be covered by the Councillor allowance.

22.3 Claims for reimbursement of travel must be submitted within three (3) months of the date from which they are incurred.

23. Cabcharge Cards

23.1 Councillors may use Cabcharge cards/E Tickets for taxi travel to assist them to carry out their functions as Councillors. Councillors will be supplied, upon request, with Cabcharge cards for reasonable use whilst carrying out their official duties.

23.2 A quarterly statement is to be signed off by Councillors detailing by number the Cabcharge cards used and brief details of the trip.

23.3 Cabcharge cards are to be used only as a last resort when no other transport option is available or practicable.

23.4 Cabcharge cards are to be used by the cardholder only and must not be provided to any other individual for use.

24. Public Transport

24.1 Myki cards are issued upon request for appropriate Council business use.

25. Carparking Fees

25.1 Car parking fees incurred while conducting Council business will be reimbursed on the basis of original receipts/other relevant details regarding the purpose, date and time of the meeting or function.

ACCOUNTABILITY

26. Out of pocket expenses/reimbursement will be audited on a quarterly basis by the internal auditor and any items considered to be outside the Local Government Act 1989 or this policy will be reported to the Audit Committee. The total of expense reimbursements will be reported quarterly to the Audit Committee by the General Manager Corporate Services and communicated to all Councillors.

RELATED POLICIES

27. Conference Attendance and Travel by Councillors.

APPENDIX G CONFERENCE ATTENDANCE AND TRAVEL BY COUNCILLORS POLICY

PURPOSE

1. To clarify the approval process for overseas and interstate travel by Councillors in an official capacity.
2. To outline the process for reimbursement of expenses associated with such travel.
3. To ensure the statutory *Register of Overseas or Interstate Travel* is maintained in accordance with Regulation 12(a) of the *Local Government (General) Regulations 2015*.

OBJECTIVES

4. To define the procedure to be followed when approval to travel is sought.
5. To define the process and prescribe the application form for reimbursement of expenses incurred during travel undertaken in capacity of Councillor.
6. To specify a post-travel reporting procedure for Councillors who have travelled overseas or interstate wholly or partially funded by Council.
7. To ensure statutory requirements are met regarding entries in the *Register of Overseas or Interstate Travel*.
8. To meet Council Plan objectives.

SCOPE

9. This policy applies to all Councillors of the City Of Whitehorse.

DEFINITIONS

10. Statutory Reference: Local Government (General) Regulations 2015
Documents to be made available for public inspection;

Regulation 12(a) –

For the purposes of section 222 of the Act, the following are prescribed documents if they are not published on the Internet website of the Council—

- a) *A document containing details of overseas or interstate travel (other than interstate travel by land for less than 3 days) undertaken in an official capacity by any Councillor or member of Council staff in the previous 12 months, including —*
 - i. *The name of the Councillor or member of Council staff; and*
 - ii. *The dates on which the travel began and ended; and*
 - iii. *The destination of the travel; and*
 - iv. *The purpose of the travel; and*
 - v. *The total cost to the Council of the travel, including accommodation costs;*

Note 1: The Whitehorse City Council has established for the purpose of capturing such details a 'Register of Overseas and Interstate Travel' held in the Civic Services Department to ensure such details are always available for public inspection.

Note 2: Travel must be entered in the register if taken by a person 'in an official capacity' which includes travel undertaken because of the position they hold, whether or not the Council pays for any of the trip. It is on the basis of travel undertaken, not who paid the expenditure.

11. 'Official capacity' means the position held by a person in relation to the Whitehorse City Council. This covers an elected Councillor for the purpose of this Policy. It includes attendance at conferences and seminars, either as a participant or speaker.

'Interstate Travel' for the purpose of this policy means travel outside Victoria and within Australia.

POLICY

12. Council recognises that attendance at conferences/seminars/study tours contributes to the personal and professional development of Council and is consistent with Council's objectives.
13. Registration fees, accommodation, travelling expenses and other out of pocket expenses shall be borne by Council in accordance with clause 16 of this Policy. The amount payable by Council for travel by air shall be the equivalent of a return economy class airfare. Reimbursement of all expenses is based on the principle of cost neutrality to the participant.
14. The amount available to individual councillors for conference/seminar/training attendance be set as a total amount for the four year Council term (after each general Council Election) to be accessed by Councillors to a maximum amount of \$7,500 each, in each Council budget year with any additional amount from the total Council term allocation to be approved by a Council resolution
15. All overseas travel shall be authorised in advance by Council. All interstate travel shall be authorised in advance by the Mayor.
16. Council in its annual budget will allocate a specified sum per Councillor for the purpose of conference seminar/attendance travel and associated expenses and training under the Council Expenses Program. Expenditure in excess of the allocated sum for each Councillor will require Council approval prior to expenditure occurring (as per Clause 14).
17. Individual Councillor expenses accounts shall be maintained for the purposes of this Policy.
18. In instances where a Councillor's spouse or another family member travels with the Councillor, they shall meet the full cost incurred. These costs must be paid in full to Council at the time of conference registration and prior to travel being undertaken. Any additional costs incurred by the Councillor's spouse/family member shall be reimbursed to Council within 14 days of return from travel.
19. Any Councillor who is offered sponsorship in the form of conference registration or other costs in an official capacity, wholly or partly by any government agency, external organisation or person, shall immediately make this known to the Mayor and Chief Executive Officer.
20. A written report shall be prepared for the information of Council by every Councillor, (subject to the exception below) who has travelled overseas or interstate in an official capacity. The report shall provide comment on the value of the conference/visit, benefits to the city and provide recommendations for further action (if applicable). This report will be circulated to Councillors via the Councillor Portal. In the event that two or more Councillors attend the same conference, for the purposes of this Policy, only one written report is required which may be a joint report.

PROCEDURE

21. Approvals for travel undertaken in an official capacity.

A 'Request for Travel' must be submitted on the prescribed form (Attachment 1) and submitted for approval in accordance with this policy. To meet Council's statutory obligations a copy of the form is to be forwarded to the Manager Civic Services for inclusion in the *Register of Overseas and Interstate Travel*.

22. All arrangements for Councillors will be handled by the EA to Mayor and Councillors. EA to Mayor and Councillors is NOT responsible for handling travel arrangements for accompanying spouse/family members.

PAST CONFERENCE/SEMINAR ATTENDANCE REQUIREMENTS

23. Written reports as required under Clause 20 will be issued within two months of the date of return from such conference/seminar attendance.
24. To ensure that the Council Administration consider and follow up on actions/initiatives and recommendations from the reports of Councillors attending conferences, Manager Civic Services will review the reports and list matters requiring attention before the Executive Management Team. The Executive Management Team will decide the appropriate action and allocate action officers. All Councillors will be advised of the progress of these items.

EXPENDITURE

25. Details of expenditure for ALL overseas and interstate travel shall be provided by every Councillor in the prescribed form – 'Report on Expenditure for Travel' (Attachment 2). The form is to be submitted to the Mayor within 14 days of return from the travel. Following approval by the Mayor, the form will be forwarded to the Finance Department for relevant action and a copy provided to Manager Civic Services for inclusion in the *Register of Overseas and Interstate Travel*.

RESPONSIBILITY

26. Individual Councillors for document completion

Manager Finance for reimbursement of expenses

Manager Civic Services for maintenance of *Register of Overseas and Interstate Travel*.

**CITY OF WHITEHORSE
COUNCILLOR REQUEST FOR TRAVEL (Interstate or Overseas)**

This form is to be submitted to the MAYOR for signature BEFORE you make any arrangements, ie conference bookings, air fares etc via the EA to the Mayor and Councillors, purchase order or any other method.

I _____ (name)

request permission to travel to _____
(state destination and if flying or driving there)

for the purpose of attending _____
(Describe conference)

The benefit to Whitehorse of this travel is:

Note: if somebody else is also attending, they need to do a separate form, keeping all travel costs separated.

I would like to depart on _____ and return on _____

Expenses to be paid from account _____

My proposed air fares, travel costs and registrations are:

(detail here flight times, dates, how many nights accommodation etc and any comments you wish to make)

Request for Travel is Part 1 of the process.

Within 14 days of completion of travel you must complete a Report of Expenditure Form (Part 2 of the process). Report of Expenditure Form is required to register your trip and is separate to any reimbursements you are claiming.

It is a statutory requirement under the *Local Government (General Regulations) 2015*, for Council to maintain a Register of Interstate and Overseas Travel and to make this Register available for public inspection for a period of 12 months.

During your trip, if you use your personal credit card or Cabcharge, please make a note of costs so you can finish this form without waiting for a monthly statement.

(Signature)

MAYOR'S APPROVAL

(Signature)

(FOR COUNCILLORS' INTERSTATE TRAVEL MAYOR'S APPROVAL IS REQUIRED, FOR COUNCILLORS' OVERSEAS TRAVEL APPROVAL OF COUNCIL IS REQUIRED)

(After approval, **you** are required to provide a copy to Manager Civic Services).

PLEASE REFER TO CONFERENCE ATTENDANCE AND TRAVEL POLICY BEFORE SUBMITTING THIS FORM

CITY OF WHITEHORSE
REPORT OF EXPENDITURE FOR TRAVEL - COUNCILLORS

(To be completed within 14 days of return from the trip)

NAME _____

TITLE **COUNCILLOR**

Please note: This form is for the purpose of entering the travel in the register required by the Local Government Act which is a separate purpose from any reimbursement claims. On completion of the form, you must submit a copy to Manager Civic Services after MAYOR has signed it.

Date and Purpose of Trip (include the dates and place of the conference)

EXPENDITURE DETAIL	Cost	* Method of Payment	Account No	Comments
Airfares				
Accommodation				
No of nights:				
Conference Costs				
Meals				
Taxis				
Hire Car				
Other (Pls specify)				
TOTAL	\$			

*Prearranged, credit card, cash etc

I confirm this is a true and accurate record of my travel expenditure and reimbursements sought whilst attending an interstate/overseas conference in accordance with Council Policy, and does not include any claims for reimbursements of a personal or private nature.

SIGNATURE _____

Approval: MAYOR _____

COPIES TO BE PROVIDED BY COUNCILLOR TO CIVIC SERVICES

TRIM NUMBER: _____ Entered in Register: _____

APPENDIX H MEDIA RELATIONS POLICY

Purpose

1. Media relations are a significant aspect of the Council's operations. The media is an important source of information and analysis for citizens of Whitehorse and a significant means of communications.
2. The Council's media relations can be proactive or reactive, and can be initiated by the Council or in response to media initiatives. In both cases the nature of the relationship has a strong influence on the media coverage. This document summarises the policies of the Council with respect to media relations, and how they should be developed and conducted.

Objectives

3. Develop effective media relations in the dissemination of Council information.
4. Determine who will represent the Council in speaking to the media.

Scope

5. All print, social and electronic media; local, metropolitan and national newspapers, magazines; industry newsletters; television and radio.

Policies

6. The City of Whitehorse will communicate openly with the media in order to maximise the public knowledge and understanding of our policies, activities and services.
7. The City of Whitehorse will be consistent and clear on who will represent the Council and speak on behalf of the Council to the media. This minimises confusion and ensures an efficient liaison service is provided.
8. The media are entitled to receive all information that is public information, that is, all information which the constituents of the City of Whitehorse are entitled to receive.
9. All comments to the media shall be presented positively and reflect the values of the City.

Procedures

10. The implementation of the Council's policies on media relations has implications at several levels. The Council has adopted the following guidelines.

Media

11. Distribute media releases to local media outlets each week.
12. Hold regular meetings with journalists from the local media and the Mayor and Chief Executive Officer, as appropriate, to brief journalists on key issues.
13. For major issues a specific media strategy will be prepared, and a spokesperson selected by the Mayor and Chief Executive Officer.
14. All media enquiries are to be directed to the Communications Department and an appropriate spokesperson nominated to respond to questions.

Publications

15. To continue to produce or review all printed material ensuring accurate, timely information is distributed to the public including all brochures, information sheets and regular publications including:
- Council Vision
 - Council Plan
 - Annual Budget
 - Annual Report
 - Rates Brochure
 - Annual Calendar
 - Whitehorse News

Advertising/Public Notices

16. To continue processing the Council's tender advertisements and Planning Scheme Amendments through the Purchasing & Tendering Unit and the Strategic Planning Unit. Processing of Public Notices to be placed in the *Whitehorse News*, *The Age* or the Victorian Government Gazette as required by the Act. All other advertisements to be processed by the Communications Department for inclusion in the Council's regular Page 6 column in the *Whitehorse Leader*.

Civic Centre Reception

17. To provide information held on display at Council's Service Centres and to maintain an accessible information stand.

Internet

18. To continue regularly updating the Councils Internet website and social media as required.

Communication with Councillors

19. To continue communicating with Councillors on key issues.



Election Period Policy

20 February 2017

ELECTION PERIOD POLICY

1. Status of Policy

This policy has been adopted by Council in compliance with the requirements of section 93B of the *Local Government Act 1989 (Act)*.

2. Purpose

In order to ensure that general elections for the Whitehorse City Council are conducted in a manner that is fair and equitable, and is publicly perceived as such, the Council affirms the following policy principles.

3. Election Period

The "Election Period" starts on the last day on which nominations for that election can be received and ends at 6.00pm on election day.

As soon as possible, and no later than 30 days prior to the commencement of the Election Period, the Chief Executive Officer will ensure that:

- a) All Councillors, Managers and staff are informed of the requirements of this policy; and
- b) A copy of this policy is given to all Councillors

4. Significant Decisions

During the Election Period the Council will not make a major policy decision as defined under section 93A of the Act. In the case of a major policy decision which is not significantly prohibited under section 93A of the Act, Council will be aware of a number of factors indicating whether the decision/issue:

- a) Is urgent;
- b) Cannot be reasonably deferred without significant consequences to the Council or the community of Whitehorse; and
- c) Relates to the completion of activity already endorsed by Council eg: via the Budget, Council Plan, Business Plan, 10 Year Plan etc.

Where possible, the Chief Executive Officer will ensure that matters are scheduled for Council to ensure that significant decisions are resolved prior to the commencement of the Election Period or scheduled for determination by the incoming Council.

5. Inappropriate Decisions

During the Election Period the Council will follow procedures to prevent inappropriate decisions as defined under section 93B of the Act. Inappropriate decisions are those that would affect voting at an election or decisions that may unreasonably bind an incoming Council and could reasonably be deferred until after the election.

All documentation prepared for Council or special committee meetings will be carefully vetted by the Chief Executive Officer to ensure that no agenda item is included that could potentially influence voters' intentions at the general election or could encourage Councillor candidates to use the item as part of their electioneering.

Councillors commit to refraining from moving motions or raising matters at a meeting that could potentially influence voting at the election.

6. Caretaker Statement

During the Election Period, the Chief Executive Officer will ensure that a “Caretaker Statement” is included in every agenda submitted to the Council or to a special committee of Council for a decision. The “Caretaker Statement” will appear at the start of the agenda and will state that:

“The recommended decisions on all reports on this agenda do not fall within the definition of a Major Policy Decision as outlined in Section 93A of the Act and Council’s Election Period Policy”.

Should any report be presented to the Council or a Special Committee during an Election Period, which it is considered does fall within Section 93A of the Act, this will be clearly indicated with a statement both at the commencement of the agenda and at the heading of any such report.

7. Council Resources

The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in this regard. In any circumstances where the use of Council resources might be construed as being related to a candidate’s election campaign, advice will be sought from the Chief Executive Officer or the Manager Civic Services.

Council resources, including offices, support staff, mayoral vehicle, meeting facilities, hospitality, equipment photocopying and stationery will be used exclusively for normal Council business during the Election Period and will not be used in connection with any election.

Reimbursements of Councillors’ out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate’s election campaign.

No Council logos, letterheads, or other Whitehorse City Council logos or associated Council material will be used for, or linked in any way to, a candidate’s election campaign.

The Chief Executive Officer and Council staff will not be asked to undertake any tasks connected directly or indirectly with electioneering.

8. Public Consultation

During the Election Period the Council will undertake procedures to limit public consultation. Whilst consultation is an integral part of Council’s policy development process and operations, Council is concerned to ensure that consultation is not undertaken close to a general election so as to possibly become an election issue in itself and influence voting. Councillors acknowledge that issues raised through the consultation and decisions that follow may also unreasonably bind the incoming Council.

No public consultation will be undertaken during the Election Period unless authorised by a Council decision that acknowledges the application of this policy and justifies to the Whitehorse community the special circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

9. Council Events

Councillors acknowledge that the scheduling of Council events in the lead up to elections may raise concerns over their potential use by sitting Councillors for electioneering purposes. To this end the Chief Executive Officer (CEO) will ensure that no Council events will be scheduled during the Election Period unless there are special/exceptional circumstances making it necessary and justifying how the risks of influencing the election will be mitigated or prevented.

10. Information

The Council recognises that all election candidates have rights to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the Election Period.

Information and briefing material prepared by staff for Councillors during the Election Period will relate only to factual matters or to existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

An Information Request Register will be maintained by the Manager Civic Services during the Election Period. This Register will be a public document that records all requests for information by councillors and candidates, and the responses given to those requests.

All requests for information are to be directed to the Chief Executive Officer in written format.

11. Publicity

It is recognised that Council publicity is intended to promote Council activities and services. Council publicity will not be used in any way that might influence the outcome of a Council election.

Council is required to comply with Section 55D of the Act which states:

“A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.

The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.”

Penalty: 60 penalty units.

In addition:

- a) During the Election Period, no Council employee may make any public statement that could be construed as influencing the election;
- b) During the Election Period, publicity campaigns, other than for the purpose of conducting the election, will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council service or function, it must be approved by the Chief Executive Officer. Council publicity during the Election Period will be restricted to promoting normal Council activities;
- c) Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer or Manager Civic Services. In any event, no media advice or assistance will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors;
- d) Councillors will not use their position as an elected representative to access Council staff and other Council resources to gain media attention in support of an election campaign; and
- e) All Council media releases (which exclude electoral matters) in the Election Period will be issued in the name of the Chief Executive Officer as appropriate.

12. Assistance to Candidates

The Council affirms that all candidates for the Council election will be treated equally.

Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated to all candidates in advance.

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer or the Manager Civic Services.