

# LODDON SHIRE COUNCIL

## COUNCILLOR CODE OF CONDUCT



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## 1 PURPOSE

The Councillor Code of Conduct (Code) sets out legal requirements under the Local Government Act 1989 (the Act) and minimum standards of conduct for councillors in their role as Loddon Shire councillors.

This Code endeavours to foster good working relations between councillors to enable them to work together in the best interests of the community, and mandates councillor conduct designed to build public confidence in the integrity of local government.

## 2 BUDGET IMPLICATIONS

There are no direct budget implications arising from adoption of this Code.

## 3 RISK ANALYSIS

If this Code is followed, reputational and legal risks will be minimised.

## 4 ROLE OF MAYOR AND COUNCILLORS

In accordance with Section 73AA of the Act the functions of the Mayor include:

- (a) providing guidance to councillors about what is expected of a councillor including in relation to the role of a councillor under section 65, and the observation of the councillor conduct principles and the Councillor Code of Conduct by councillors under sections 76B, 76BA and 76C; and
- (b) acting as the principal spokesperson for the council; and
- (c) supporting good working relations between councillors; and
- (d) carrying out the civic and ceremonial duties of the office of Mayor.

In accordance with Section 65 of the Act the role of a councillor is:

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

Section 65(2) goes on to say that in performing the role of a councillor, a councillor must:

- (a) consider the diversity of interests and needs of the local community; and
- (b) observe principles of good governance and act with integrity; and
- (c) provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under the Act and other Acts; and
- (d) participate in the responsible allocation of the resources of Council through the annual budget; and
- (e) facilitate effective communication between the Council and the community.

In accordance with Section 65(3) the role of a councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A of the Act.

These functions and roles need to be exercised in the context of Part 1A of the Act which sets out the Local Government Charter which comprises six sections of the Act:

- Section 3A states that the purpose of local government is to provide a system under which Councils perform the functions and exercise the powers conferred by or under the Act and any other Act for the peace, order and good government of their municipal districts.

- Section 3B states that a Council consists of its councillors who are democratically elected in accordance with the Act.
- Section 3C states the primary and facilitating objectives of a Council. The primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions. In seeking to achieve this primary objective, a Council must have regard to the following facilitating objectives:
  - to promote the social, economic and environmental viability and sustainability of the municipal district
  - to ensure that resources are used efficiently and effectively and services are provided in accordance with the Best Value Principles to best meet the needs of the local community
  - to improve the overall quality of life of people in the local community
  - to promote appropriate business and employment opportunities
  - to ensure that services and facilities provided by the Council are accessible and equitable
  - to ensure the equitable imposition of rates and charges
  - to ensure transparency and accountability in Council decision making
- Section 3D describes the role of a council. A Council is elected to provide leadership for the good governance of the municipal district and the local community. The role includes:
  - acting as a representative government by taking into account the diverse needs of the local community in decision making
  - providing leadership by establishing strategic objectives and monitoring their achievement
  - maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner
  - advocating the interests of the local community to other communities and governments
  - acting as a responsible partner in government by taking into account the needs of other communities
  - fostering community cohesion and encouraging active participation in civic life
- Section 3E states that for the purpose of achieving its objectives, a Council may perform its functions inside and outside its municipal district. The functions of Council include:
  - advocating and promoting proposals which are in the best interests of the local community
  - planning for and providing services and facilities for the local community
  - providing and maintaining community infrastructure in the municipal district
  - raising revenue to enable the Council to perform its functions
  - making and enforcing local laws
  - exercising, performing and discharging the duties, functions and powers of Councils under this Act and other Acts
  - any other function relating to the peace, order and good government of the municipal district
- Section 3F outlines the powers of Council. Subject to any limitations or restrictions imposed by or under the Act or any other Act, a Council has the power to do all things necessary or convenient to be done in connection with the achievement of its objectives and the performance of its functions.

## 5 COUNCILLOR BEHAVIOURS

The Council affirms the following principles of behaviour:

## 5.1 Primary principle of councillor conduct

In accordance with Section 76B, in performing the role of a councillor, a councillor will:

- a) act with integrity
- b) impartially exercise his or her responsibilities in the interests of the local community
- c) not improperly seek to confer an advantage or disadvantage on any person.

## 5.2 General principles of councillor conduct

In accordance with Section 76BA, in addition to acting in accordance with the primary principle of councillor conduct, in performing the role of a councillor, councillors will:

- 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 staff 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.

## 6 GIFTS AND BENEFITS

In accordance with Section 62B of the Act, it is unlawful for a councillor (or candidate) or a person acting on behalf of a Councillor or candidate to receive during the donation period a gift made to or for the benefit of the Councillor or candidate, being a gift the amount or value of which exceeds the gift disclosure threshold unless:

- a) the name and address of the person or unincorporated association (gift giver) making the gift are known to the person receiving the gift; or
- b) at the time when the gift is made:
  - i. the gift giver gives to the person receiving the gift the gift giver's name and address; and
  - ii. the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the gift giver.

The Donation Period means the period commencing on whichever is the later of:

- a) 30 days after the last general election for the Council; or
- b) 30 days after the last election for the Council at which the person required to give the election campaign donation return was a candidate

and ending 30 days after election day in the current election for the Council.

In accordance with Section 62B(8) and (9) if a person receives a gift that, by virtue of Section 62B, it is unlawful for the person to receive, an amount equal to twice the amount or value of the gift is forfeited to the State and may be recovered against the Councillor or candidate.

Each councillor will scrupulously avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality, is attempting to gain favourable treatment from an individual councillor or from the Council. Each councillor will take all reasonable steps to ensure that immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

Where a gift is received on behalf of the Council, the gift becomes the property of the Council, and the councillor will ensure that the gift is recorded in the Councillors Gifts Register with a notation that it is the property of the Council.

Gifts equal to or above the gift disclosure threshold (currently \$500) received in the twelve months prior to election from a person or body that has a direct interest in a matter may give rise to an indirect interest because of receipt of an applicable gift.

Each councillor will record all campaign donations in the “campaign donation return”.

## **7 MISUSE OF POSITION**

In accordance with Section 76D of the Act, 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

The penalty for misuse of position is 600 penalty units or imprisonment for 5 years or both.

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 inappropriate 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 they are not authorised 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 the Act.

## **8 IMPROPER DIRECTION**

In accordance with Section 76E (2) of the Act, each councillor will 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 offer under the Act or another 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 in relation to advice provided to the Council or a special committee, including advice in a report to the Council or special committee.

## **9 CONFIDENTIAL INFORMATION**

In accordance with Section 77 of the Act, a person who is, or has been, a Councillor or a member of a special committee, must not disclose information that he or she knows, or should reasonably know, is confidential information.

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 reasonable 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.

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.

## **10 CONFLICT OF INTEREST AND CONFLICTING PERSONAL INTEREST**

### **10.1 Identifying a conflict**

Councillors will exercise diligence in identifying conflicts of interest at Council meetings, special committee meetings, audit committees, Council Forums, Council Briefings or assemblies of councillors.

Conflicts of interest may be either direct or indirect as described in Sections 77A, 77B, 78, 78A, 78B, 78C, 78D and 78E of the Act. Councillors should refer to these sections for more detail.

In accordance with Section 79C, a councillor is taken to not have a conflict of interest 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 under section 75B in relation to the reimbursement of expenses;
- 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 an internal dispute that involves the Councillor or 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.

In addition to the above, section 79C (2) and (3) state:

- a) 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:
  - i. the Council previously approved the matter and the proposed funding for the matter for inclusion in the budget or revised budget; and
  - ii. the Councillor disclosed the nature of the conflict of interest under section 79 when the decision in respect of the matter and the proposed funding for the matter was previously considered and made.
- b) 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:
  - i. the Council previously approved the matter for inclusion in the Council Plan; and
  - ii. 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.

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.

## **10.2 Disclosing a conflict of interest**

In accordance with Section 79 of the Act, 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 by either:

- a) advising the Council or special committee at the meeting of the type and nature of the interest immediately before the matter is considered at the meeting; or
- b) advising the Chief Executive Officer in writing of the type and nature of the interest before the meeting (and also disclosing the class of interest only to the meeting immediately before the matter is considered at the meeting)

Councillors will comply with all the provisions of the Act relating to conflicts of interest.

Having disclosed a conflict of interest, Councillors will comply with the relevant provisions of the Act.

## **10.3 Managing personal interests**

Councillors should also note section 79B relating to conflicting personal interests. In accordance with section 79B (2), (3) and (4) where a Councillor or a member of a special committee considers that he or she has personal interest in relation to a matter that is in conflict with his or her public duty in relation to a 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 giving reasons; and consent must not unreasonably be withheld.

## **11 OTHER LEGISLATIVE REQUIREMENTS**

Each councillor will comply with other requirements in the Act including councillor eligibility, electoral conduct and the election period (caretaker period).

Alleged contraventions of councillor eligibility, electoral conduct and the election period (caretaker period) provisions are dealt with by the Victorian Electoral Commission or the Local Government Inspectorate, depending on the nature of the allegation.

## **12 DISPUTE RESOLUTION**

### **12.1 Internal dispute resolution overview**

In accordance with Section 76C(3)(a) a Councillor Code of Conduct must include the internal resolution procedure for dealing with an alleged contravention of the Councillor Code of Conduct by a Councillor.

Councillors commit to working effectively together at all times and to developing good working relationships.

Before commencing any formal dispute resolution process, the councillors who are parties to a dispute will use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. Where, after these endeavours have been exhausted, the matter still remains unresolved, the parties may resort to any or all of the Council's three phase dispute resolution process.

The Council's three phase dispute resolution process involves:

1. direct negotiation between the parties in dispute with the Mayor in attendance to provide guidance;
2. external mediation by an independent mediator engaged by the Chief Executive Officer; and
3. an internal resolution procedure involving an independent arbiter.

### **12.2 Dispute resolution procedure**

#### **Phase 1 – Direct negotiation**

Where councillors who are in dispute have not been able to resolve the dispute between them, either (or both) party (parties) may request the Mayor to convene a meeting of the parties.

A dispute referred for direct negotiation may relate to:

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

The party requesting the direct negotiation meeting (the requestor) is to provide the Mayor with the name of the other councillor and the details of the dispute in writing. The written request is to indicate that it is for a "direct negotiation" dispute resolution process. Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

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

The requestor is to notify the other party of the request and provide him or her with a copy of the written request either at the same time as it is provided to the Mayor or as soon as practicable thereafter.

The Mayor is to ascertain whether or not the other party is prepared to attend a “direct negotiation” meeting.

If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor. No further action is required of the Mayor.

If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within five working days of receiving the consent of the other party.

The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

The role of the Mayor at the meeting is to provide guidance to councillors about what is expected of a councillor including in relation to the role of a councillor under section 65 of the Act, and the observation of the councillor conduct principles and the Councillor Code of Conduct.

The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to external mediation or the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

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

Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor (if any) or the immediate past Mayor. The Deputy Mayor or the immediate past Mayor will perform the functions ascribed to the Mayor.

## **Phase 2 – External mediation**

A councillor or a group of councillors may make an application for a dispute to be referred for external mediation whether or not the dispute has been the subject of an application for “direct negotiation”.

The Principal Conduct Officer is the person appointed in writing by the Chief Executive Officer to be the Principal Conduct Officer for the Council under section 81Y of the Act. This person is the Director Corporate Services.

The functions of the Principal Conduct Officer are to:

- assist the Council in the implementation of, and conduct of the internal resolution procedure of a Council; and
- assist the Principal Councillor Conduct Registrar to perform the functions specified in section 81T

An application made for a dispute to be referred for external mediation may relate to:

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

The applicant is to submit a written application to the Principal Conduct Officer setting out the name of the councillor and the details of the dispute. The application is to indicate that the application is for an “external mediation”. Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

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

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

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

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

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

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

The external mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to the internal resolution procedure where the matter relates to an alleged contravention of the Councillor Code of Conduct.

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

### **Phase 3 – Internal resolution procedure – arbiter**

An application cannot be made for an internal resolution procedure during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an internal resolution procedure is not returned to office as a councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

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

A councillor or a group of councillors may make an application alleging that a councillor has contravened this Councillor Code of Conduct. The application must:

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

The application must be submitted to the Council's Principal Conduct Officer.

An applicant may withdraw an application for an internal resolution procedure. Once an application has been withdrawn, the same or a similar application relating to the same instance in relation to the respondent councillor cannot be resubmitted by the applicant.

On receiving an application, the Principal Conduct Officer will:

- advise the Mayor and CEO of the application without undue delay;
- provide a copy of the application to the councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;
- identify an arbiter to hear the application who is suitably independent and able to carry out the role of arbiter fairly;
- obtain from the arbiter written advice that they have no conflict of interest in relation to the councillors involved;
- notify the parties of the name of the proposed arbiter and provide them with the opportunity (2 working days) to object to the person proposed to be the arbiter;
- consider the grounds of any objection and appoint the proposed arbiter or identify another arbiter;
- provide a copy of the application to the arbiter as soon as practicable after the opportunity for the parties to object to an arbiter has expired;
- after consultation with the arbiter, applicant and respondent, advise all parties of the time and place for the hearing; and
- attend the hearing(s) and assist the arbiter in the administration of the process

In identifying an arbiter to hear the application, the Principal Conduct Officer must select an arbiter who is suitably independent and able to carry out the role of arbiter fairly.

The role of the arbiter is to:

- consider applications alleging a contravention of the Councillor Code of Conduct by a councillor;
- make findings in relation to any application alleging a contravention of the Councillor Code of Conduct which the arbiter must give to the Council;
- give a written statement of reasons supporting the findings to the Council at the same time as it gives its findings to the Councillor;
- recommend an appropriate sanction or sanctions where the arbiter has found that a councillor has contravened the Councillor Code of Conduct;
- address any matters prescribed for the purposes of section 81AA of the Act;
- include any provisions prescribed for the purposes of section 81AA of the Act.

In considering an application alleging a contravention of the Councillor Code of Conduct, the arbiter will:

- in consultation with the Principal Conduct Officer (who will liaise with the applicant and respondent), fix a time and place to hear the application;
- authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;

- hold as many meetings as he or she considers necessary to properly consider the application. The arbiter may hold a directions hearing;
- have discretion to conduct the hearings as he or she deems fit while ensuring that the hearings are conducted with as little formality and technicality as due and proper consideration of the application allows;
- ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter;
- consider an application by a respondent to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application;
- ensure that the rules of natural justice are observed and applied in the hearing of the application; and
- ensure that the hearings are closed to the public.

Where an application to have legal representation is granted by an arbiter, the costs of the respondent's legal representation are to be borne by the respondent in their entirety.

The arbiter:

- may find that a councillor who is a respondent to an internal resolution procedure application has not contravened the Code;
- may find that a councillor who is a respondent to an internal resolution procedure has contravened the Code;
- will suspend consideration of an internal resolution procedure during the election period for a general election.

The arbiter is to give a copy of his or her findings and the statement of reasons to the Council, the applicant and the respondent. At the same time, the arbiter provides the findings and statement of reasons, he or she shall, where a councillor has been found to have contravened the Code, recommend an appropriate sanction or sanctions for the contravention for consideration by the Council.

A copy of the arbiter's findings, statement of reasons and any recommended sanctions is to be submitted to the next ordinary meeting of the Council for its consideration. If the arbiter has found that a contravention of the Code has occurred, the Council may, after considering the arbiter's findings, statement of reasons and recommendation on sanctions, give any or all of the following written directions to the councillor:

- direct the councillor to make an apology in a form or manner specified by the Council;
- direct the councillor to not attend up to, but not exceeding, two meetings of the Council (in respect of the next scheduled meetings of the Council);
- direct that, for a period of up to, but not exceeding, two months on a date specified by the Council the councillor:
  - be removed from any position where the councillor represents the Council; and
  - 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.

A councillor who does not participate in the internal resolution procedure may be guilty of misconduct. The Act provides that misconduct by a councillor means any of the following:

- a) failure by a councillor to comply with the Council's internal resolution procedure; or
- b) failure by a councillor to comply with a written direction given by the Council under section 81AB; or
- c) repeated contravention of any of the councillor conduct principles.

### 12.3 Councillor Conduct Panel

Allegations of misconduct or serious misconduct may be heard by a Councillor Conduct Panel on application in accordance with Section 81B(1A) of the Act.

The Act provides that misconduct by a councillor means any of the following:

- a) failure by a councillor to comply with the Council's internal resolution procedure; or
- b) failure by a councillor to comply with a written direction given by the Council under section 81AB; or
- c) repeated contravention of any of the councillor conduct principles.

Serious misconduct means:

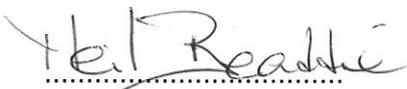
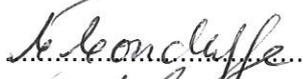
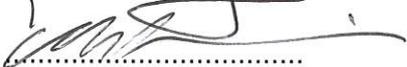
- a) the failure of a Councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor; or
- b) the failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give; or
- c) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel; or
- d) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by a Councillor Conduct Panel; or
- e) bullying of another Councillor or member of Council staff by a Councillor; or
- f) conduct by a Councillor in respect of a member of Council staff in contravention of section 76E; or
- g) the release of confidential information by a Councillor in contravention of section 77.

In relation to paragraph (e) above, bullying is defined as repeated, unreasonable behaviour by a Councillor directed towards a Councillor or member of Council staff, that creates a risk to health and safety.

### 13 DECLARATION

I hereby declare that I have read the Councillor Code of Conduct for Loddon Shire Council adopted on and declare that I will abide by this Code.

Signed:

Cr Neil Beattie		Date 14/2/2017
Cr Colleen Condliffe		Date 14/2/2017
Cr Geoff Curnow		Date 14/2/2017
Cr Gavan Holt		Date 14/2/2017
Cr Cheryl McKinnon		Date 14/2/2017

Witness: Chief Executive Officer

Phil Pinyon		Date 14/2/2017
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