

SOUTH GIPPSLAND SHIRE COUNCIL

Councillor Code of Conduct



South Gippsland
Shire Council

COUNCILLOR Conduct Principles

"As the elected Councillors of South Gippsland Shire Council (Council), in honouring the trust our Community has placed in us to lead the Council and the Shire, it is our individual and collective responsibility to strive to be a successful team.

We acknowledge the best way to achieve success is by working collaboratively and respectfully together, valuing the diversity of skills, knowledge and opinions of others, and making informed decisions in the best interests of the whole Shire.

We appreciate there will be both challenges and achievements during our term in office. To this end, wherever we are, or may be perceived to be, representing Council we will draw guidance from our 'Councillor Charter' and 'Code of Conduct'. So that our actions and behaviours continually align with the exemplary leadership our Community deserves.

We seek to be a Council that our Community is proud."

Our Commitment

As the Councillors of South Gippsland Shire Council, we will abide by this Councillor Code of Conduct and uphold the standards of conduct contained within.



COUNCILLOR SIGNATURE	COUNCILLOR NAME	DATE OF COMMITMENT
	Mohya Dennis	16.2.2022
	Cr Nathan Hersey	16/2/2022
	ADRIAN DARAKAI	16/2/22.
	CLARE WILLIAMS	16/2/22
	Michael Fenton	16/2/2022
	JOHN JEWLING	16/02/2022.
	Jenni Keerie	16/02/2022.
	Scott Dae	16/02/2022.
	Sarah Gilligan	16/02/2022.

As Chief Executive Officer, of South Gippsland Shire Council, I declare that I have witnessed the signing of the Councillors declarations of this *Councillor Code of Conduct*.

CEO SIGNATURE	CEO NAME	DATE OF SIGNING
	KERYN MAFFEI	16-2-2022.

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PURPOSE


The purpose of this *Councillor Charter* (Charter), this *Code of Conduct* (Code) and the *Dispute Resolution* is to promote a proactive, collaborative culture for Councillors to frequently refer to in the course of performing our duties and functions as the community's elected representatives.

The Charter demonstrates the shared values and agreed ways of working together that will guide us towards being a successful team.

The Code articulates the standards of conduct required by each Councillor. It is against these standards we will be held accountable to each other and to our community.

The Dispute Resolution provides procedures to assist in resolving conflicts, should they arise.

Together, these principles form the *South Gippsland Councillor Code of Conduct*. It is a public declaration that, as Councillors, we are committed to ensuring good governance measures and a high level of performance as foundational elements of everything we do.



It is a requirement of good governance, and a legislative obligation, that all Councillors understand and comply with this Code.

SCOPE

This Code is applicable to all Councillors of the South Gippsland Shire Council.

This Code is to be referred to by any person(s) involved in dealing with a conduct matter or complaint pertaining to a South Gippsland Shire Councillor.

Any complaints arising between a Councillor and a community member, are to be directed to the Mayor to consider and decide how to deal with the complaint. If the Mayor is a party to the complaint then the complaint needs to be directed to the Deputy Mayor.

Any complaints arising between a Councillor and Council Officer are to be directed to the Chief Executive Officer (through the Mayor by Councillors) to negotiate a resolution.

If the Chief Executive Officer is a party to the matter, then an independent mediator will be appointed by the *Principle Conduct Officer* to negotiate a resolution. The Deputy Mayor would take the place of the Mayor if the Mayor is a party to the complaint.

Councillor Charter

INTRODUCTION

The Councillors' Charter aims to help us develop and maintain healthy working relationships with each other, Council staff and the community; to guide us as individuals and as a team.



SHARED VALUES

As Councillors, we committed to demonstrating the values that underpin the 'living identity' and reputation of the Council:

- Community focused;
- Accountable;
- Respectful;
- Proactive; and
- Acting in the interests of the whole Shire.

In our work we acknowledge the privileged role we have and strive to:

- Reflect and learn from the past whilst maintaining a future focus.
- Outward focused.
- Build mutual trust through clear communication, advocacy and consistency.
- Look for strategic opportunities in growth and change.
- Assume good intent and always look for a better way.

Principles of a Successful Team

The Principles that underpin our success are:

1. TO SERVE OUR COMMUNITY

We believe the best outcomes for the Shire will be achieved through good governance, proactive engagement and supporting community led solutions to the many planning, social and environmental challenges ahead.

We will work with our organisation to create a shared Community Vision and Council Plan that is clear, actionable and reflects a positive, future focused Council.

2. TO BE ACCOUNTABLE

We value honesty and integrity between actions and words and will not shy away from difficult conversations, instead remaining curious and present to the group.

We assume confidentiality unless permission is given (or the law requires) and strive for a united public voice.

We will hold each other to account by using this Charter and Code to call out behaviour that falls below our agreed standards and values. We will also call out and celebrate behaviour that exemplifies the Code.

3. TO BE RESPECTFUL

Respect requires a multi-faceted approach:


- a) We acknowledge the Bunurong and Gunaikurnai people as the Traditional Custodians of South Gippsland and pay respect to their Elders, past, present and future, for they hold the memories, traditions, culture, and hopes of Aboriginal and Torres Strait Islander people of Australia and of our Shire.
- b) We acknowledge the Councillors, Council staff and Community Leaders who came before us and had the foresight to build our Shire's current assets, develop industries, and lay the foundations for a thriving, inclusive community of the future.
- c) We acknowledge the diversity within our community and commit to giving everyone equity, dignity and representation in decision making. We particularly acknowledge the importance of including the youth voice. It is their future we are planning.
- d) We will value, respect and utilise the diversity of knowledge, skills, personalities, genres and other unique aspects of each individual within Council, the organisation and our community.

e) We respect the Mayor and Councillors as the political arm of Council. Each individual brings different opinions and perspectives into the decision-making process. We seek to represent the diversity of views and interests of the South Gippsland people, collectively making informed decisions in the best interest of the whole Shire.

Decisions may not always go the way an individual prefers; however, we will accept and act on the decision resolved by Council.

f) We respect and value our community members and seek their involvement in informing the strategic directions for the betterment of the whole Shire. Community views and perceptions may differ from our own and from each other, however we will aim to listen, ask questions and seek to understand these diverse views, in order to broaden our own 'world view' of each decision or direction we are called upon to make.

g) We respect that the political and administrative sides of the organisation perform different roles and functions that complement each other. It is not for us to perform the Officers' roles, or for the Officers' to perform the roles of Council. Together, we aim to maintain mutual trust and respect when working through differences of opinion.



4. TO MAKE INFORMED DECISIONS

A shared effort is required to continually make decisions that are in the best interests of the community. This requires consciously bringing an open mind, curiosity and clear communication to every discussion. We will:

- a) share our own views openly and honestly, and bring the views of our community members to share with each other.
- b) constructively explore differences of opinion and approach them in an empathetic courteous manner.
- c) assume good intent and discuss issues early.
- d) strive to balance the here-and-now with the short and long term view.
- e) do our own research, be punctual and professional.
- f) develop an understanding of responsibilities of all levels of government and advocacy.

5. TO COMMIT TO CONTINUOUS IMPROVEMENT

We agree to continually review the changing needs and priorities of the whole shire, to actively seek and consider stakeholder feedback in planning and decision making processes.

We acknowledge the privilege it is to represent our community and take responsibility for our ongoing personal and professional development as individuals and as a team.

We recognise reflection and team building as important to our work over the Council term.

OUR ROLES and Responsibilities

INTRODUCTION

A Councillor's role is to represent the interest of their municipal community. Councillors are a valuable link between the community and Council and are key to facilitating communication and building trust with the community and encouraging engagement with the activities of Council.

OUR ROLE AS COUNCILLORS

As Councillors, we participate in the decision making of the Council.

We have a key advocacy and leadership role in the provision of Council's services. We are also responsible for establishing and maintaining good governance and determining the high level strategic direction of the Council, policy and service delivery programs.

We do this by considering the diversity of interests and needs of the Shire's community, supporting the role of the Council and of the Mayor, acting lawfully in accordance with our oath or affirmation of office, acting in accordance with the standards of conduct and complying with Council's good governance procedures.

Section 28 of the Act sets out our roles and responsibilities.

ROLE OF THE COUNCIL

Councillors collectively form the Council of South Gippsland Shire. Our role, as Council, is to provide good governance in our municipality for the benefit and wellbeing of the Shire's community.

Council has been given broad duties, functions and powers under Section 8 and 10 of the Act. Some important responsibilities include:

- a) ensuring the short-term and long-term viability and prosperity of the Shire;
- b) ensuring the best use of resources to provide high quality services and facilities which the community want and need;
- c) advocating on behalf of the local community to various stakeholders and governments;
- d) representing all citizens;
- e) appointing the Chief Executive Officer; and
- f) undertaking duties and responsibilities as authorised under the Act.

Section 9 of the Act, outlines that Council must in the performance of its role give effect to the overarching principles and supporting principles of good governance. These principles include:

- a) Council decisions are to be made and actions taken in accordance with the relevant law;
- b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;

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

Local Government Act 2020 (Section 9) - Overarching governance principles and supporting principles

Section 10 of the Act, sets out Council's General Power as follows:

- 1) Subject to any limitations or restrictions imposed by or under this Act or any other Act, a Council has the power to do all things necessary or convenient to be done in connection with the performance of its role.
- 2) The generality of this section is not limited by the conferring of specific powers by or under this Act or any other Act.

Local Government Act 2020 (Section 10) - General Powers

ROLE OF THE MAYOR

The Mayor is our elected leader who is required to provide guidance to Councillors to understand their role and in establishing and promoting appropriate standards of conduct.

The Mayor chairs Council meetings, is the principal spokesperson for Council and performs civic and ceremonial duties on behalf of Council.

They lead engagement with the community for the Council Plan and report on its implementation.

A key role of the Mayor is to facilitate good relationships between Councillors, the Chief Executive Officer and Executive Management Team. The Mayor sets the tone and style of behaviour, practice and projection of the Council by working with, supporting and coordinating the team of Councillors.

The Mayor provides advice to the Chief Executive Officer in setting the Council Meeting Agenda. They also take a lead in ensuring the regular review of the Chief Executive Officer's performance.

The primary roles and powers of the Mayor are set out in Sections 18 and 19 of the Act.

ROLE OF THE DEPUTY MAYOR

The role of the Deputy Mayor is to give support to the Mayor and Councillors during the day-to-day function of Council. The Deputy Mayor must undertake the role of the Mayor if:

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

The Deputy Mayor will take responsibility for the internal resolution process when the matter relates to the Mayor. The role and powers of the Deputy Mayor is set out in Section 21 of the Act.

ROLE OF THE CHIEF EXECUTIVE OFFICER

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

The Chief Executive Officer is responsible for the management of staff and the operations Council. This includes providing professional, relevant and timely information and support to the Council in the performance of their roles.

The Chief Executive Officer sets the Agenda for Council meetings after consulting with the Mayor. They report on the implementation of Council resolutions when requested by the Mayor.

The Act, Section 46 identifies the functions of the Chief Executive Officer.

THE SEPARATION OF ROLES

A Councillor must not intentionally direct, or seek to direct, a member of Council staff in the exercise of their duties. This provision also applies in respect of Officer reports presented to Council and on directing staff under delegation or as an Authorised Officer.

To achieve good governance, clear and effective communication protocols for Councillors and Council staff are essential. We will apply the following protocols to Councillor and Council staff relationships:

- a) Acknowledgment that the Chief Executive Officer is responsible for all administrative and Council staff matters and that all Council staff are answerable to the Chief Executive Officer, therefore Councillors' primary point of communication should be with the Chief Executive Office.
- b) Councillors will refrain from using their position to improperly influence members of Council staff in their duties or functions, or to gain an advantage for themselves or others.
- c) Councillors, at all times, will treat Council staff in a professional and respectful manner.

- d) Provide and maintain a working environment that is safe and without risks to health and take appropriate measures to eliminate discrimination, sexual harassment or victimisation so far as is reasonably practicable.
- e) Councillors seeking information on a specific matter should do so via the Chief Executive Officer or the relevant Director in accordance with the guidelines established by the Chief Executive Officer and the *Councillor Access to Council Information Policy (C66)*.
- f) Contact with Managers is appropriate where Councillors are seeking clarification or further specific information on a particular matter.
- g) Councillors are to lodge customer or Councillor requests with the Mayor and Councillor Support Officer for registering.

Section 124 of the Act incorporates penalty units that may be applicable to directing a member of staff. Councillors are to be mindful not to direct staff, when acting in a group setting, outside formal Council or Delegated Committee meeting, such as at Councillor Briefings.





OUR CODE of Conduct

INTRODUCTION

This Code sets the acceptable standards of behaviour required of the community's elected representatives.

The Councillor Code of Conduct provisions are set out in sections 139 and 140 of the Local Government Act 2020 (the Act). Section 139(3) stipulates the Code include the provisions prescribed by the regulations, being the Local Government (Governance and Integrity) Regulations 2020 (the Regulations). Regulation 12 makes provision for the Standards of Conduct (the Standards), as set out in Schedule 1 to the Regulations:

- *Treatment of others;*
- *Performing the role of Councillor;*
- *Compliance with good governance measures;*
- *Councillor must not discredit or mislead Council or public; and*
- *Standards do not limit robust political debate.*

These Standards must be observed by every Councillor. The community rightfully expects these Standards of all Councillors.

OUR COMMITMENT to the Standards of Conduct

TREATMENT OF OTHERS

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

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

**Local Government (Governance and Integrity)
Regulations 2020 Schedule 1
Standards of Conduct, Regulation 12**

OUR COMMITMENT

As Councillors, we commit to treating others with dignity and respect, in the same way that we would like to be treated. We will work to foster good relationships with each other, our organisation and with our community.

We will value the diversity of others so that they can help us understand and consider everything from a wider view than our own. We will call out behaviour that is not appropriate or could undermine our team or the organisation.

We will promote a safe and healthy work environment. We will personally and collectively conduct ourselves to make people feel proud of their Council and be able to boast openly about what a great place this is to live, work, play and visit.

We commit to not bully, harass, victimise or otherwise try to bring or put other people down. We will not support, aid or encourage anyone else to treat others inappropriately. We will not create an environment where people do not feel safe or welcome.

PERFORMING THE ROLE OF COUNCILLOR

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

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

**Local Government (Governance and Integrity)
Regulations 2020 Schedule 1
Standards of Conduct, Regulation 12**

OUR COMMITMENT

As Councillors we commit to performing our roles conscientiously, representing the interests of the community in our decision making and accepting the decisions of Council, even though they may at times be contrary to our own.

We will be honest and up-front in declaring any conflicts of interest between our personal interests and our Councillor responsibilities.

We will secure confidential information and protect the privacy of others. We will be diligent in making informed decisions, having reached a view after considering the information provided by officers, the thoughts and differing views of community members and fellow Councillors and consider what decision will provide the best outcome for the whole Shire.

We commit to not use our position or the resources provided by Council inappropriately for personal benefit or for preferential treatment for ourselves or others.

We will not seek access to information that is not rightfully required for making legitimate and current Council decisions. We will not use our position in a manner that will bring shame, disrespect or disgrace on the Council.

COMPLIANCE WITH GOOD GOVERNANCE MEASURES

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

- a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- b) the *Council Support and Expenditure Policy (C51)* adopted and maintained by the Council under section 41 of the Act;
- c) the *Governance Rules* developed, adopted and kept in force by the Council under section 60 of the Act;
- d) any directions of the Minister issued under section 175 of the Act.'

Local Government (Governance and Integrity) Regulations 2020 Schedule 1 Standards of Conduct, Regulation 12

OUR COMMITMENT

As Councillors we commit to comply with the policies adopted by Council. We will use Council's *Governance Rules (C82)* to govern our meetings in a professional and respectful manner.

We will work towards improving good governance practices by using Council's *Good Governance Framework* as our guide.

We will respect the separation of roles between Councillors and the organisation and interact with Officers using the guidance established by the Chief Executive Officer for these interactions.

We will manage our records carefully and provide them when called upon to do so under the *Freedom of Information Act 1982*. We will diligently submit our claims for expenses and declare gifts, benefits and hospitality offered and whether these have been received, given to Council or politely refused.

We will give due regard to providing procedural fairness and applying an absence of bias to our decisions by hearing a range of sides to a matter and utilising the offer of taking an Officer with us when dealing with compliance matters, land-use matters or other situations where an Officer's presence would be beneficial. This may also be sought when concerns for personal safety may be an issue.

We commit to not destroying, sharing or disposing of Council records inappropriately. We will not be negligent in the use of the technology and resources provided to assist us in performing our roles. We will abstain from becoming involved in the issuing of permits, fines or prosecutions, other than where matters are brought before Council.

COUNCILLOR MUST NOT DISCREDIT OR MISLEAD COUNCIL OR PUBLIC

Councillors must not discredit or mislead Council or public:

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

**Local Government (Governance and Integrity)
Regulations 2020 Schedule 1
Standards of Conduct, Regulation 12**

OUR COMMITMENT

As Councillors we commit to always be clear with people on the distinction between a Council position and a personal opinion. We will always let people know what Council's position is.

We will separate our personal candidate pursuits from our Council roles, taking care not to use Council resources or opportunities to promote our candidature for local, State or Federal elections.


We will call out any inappropriate behaviour. We will report any observed breaches of the Code of Conduct, particularly those that relate to fraud or corrupt conduct, or to undisclosed gifts and conflicts of interest, or where improper influence or improper direction is occurring.

We will work actively and quickly towards resolving complaints made against us or with any conflicts that may arise between us. We will provide early disclosure to the Chief Executive officer of any personal dealings we are having with Council.

We commit to not misuse our position or undermine the trust placed in us. We will not mislead or misinform others. We will not misuse our position to act to someone else's gain or detriment.

We will not perform any act, or be involved in any activity that is fraudulent or corrupt. We will not accept any gifts, benefits or hospitality that may place us, or Council, in a position that could be perceived, or treated, as bribery.

We will not improperly influence or direct others.



STANDARDS DO NOT LIMIT ROBUST POLITICAL DEBATE

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

**Local Government (Governance and Integrity)
Regulations 2020 Schedule 1
Standards of Conduct, Regulation 12**

OUR COMMITMENT

As Councillors, we commit to being actively involved in healthy public debates in regard to matters that come before Council, as this is the basis of a good democracy.

We will debate the topics rigorously, where needed, to ensure that broad views are presented on behalf of the Community and that through healthy debate the best outcomes can be decided in the interests of the whole Shire.

We will be both empathetic and pragmatic towards individuals or groups that do not get the decisions they desire, by sharing with them the decision Council has made.

We commit to not making our healthy debates personal, or continue any personal affronts against others, either inside or outside, of the Council meetings and Chambers.



DISPUTE Resolution

INTRODUCTION

The purpose of Dispute Resolution is to provide clear procedures for the Mayor and Councillors to utilise when managing any disputes that may arise.

The best outcomes are achieved when disputes are dealt within a week from when they arise. Immediacy is required, so the conflicts do not lead to a breakdown in relationships, undue stress or detrimental impacts on individuals or on the image and reputation of Council.

The Dispute Resolution is not intended to resolve differences in policy or decision-making, which are appropriately resolved through discussion and voting in Council and Committee Meetings.

MANAGING DISPUTES

Council's dispute resolution procedure comprises of four components:

1. Informal Resolution between Parties
2. Formal Facilitation and Mediation with the Mayor
3. External Mediation
4. Internal Arbitration
5. Request for a Councillor Conduct Panel - Serious Misconduct.

Councillors are required to use prevention, negotiation or formal mediation processes to minimise disputes, or their escalation into unhealthy spaces, resolve them as quickly as possible.

1. INFORMAL RESOLUTION BETWEEN PARTIES

PREVENTION

Proactively preventing disputes and conflicts is the first step Councillors need to take to build a respectful and collaborative team.

In seeking to prevent disputes Councillors are to give everyone the chance to respectfully communicate their points of view, listen and seek to understand, identify points of commonality and consider points of difference back to Council's overarching goals and what decisions will be best for the whole Shire.

Above all else, Councillors are not to use a personal attack, in any form, against another person to win an area of disagreement. A personalised attack can lead to bullying or harassing behaviour, creating an unsafe workplace, which is a breach of Occupational Health and Safety requirements.

NEGOTIATION

Councillors who are parties to a dispute, have an individual and collective responsibility to try every avenue possible to resolve such issues between themselves in a courteous and respectful manner. As far as practicable Councillors are required to negotiate their way through an issue. This requires them to listen to each other, work out what the disputed points are, what is agreed and aim to reach a workable agreement to resolve each issue.

Councillors can talk to others to first, think creatively about options to address what each party wants and choose a time and place for the negotiation that suits all parties. Councillors are to focus on the issues in dispute and not the personalities of the other people involved. The focus is to look for an outcome that will work for everyone involved.

Councillors are not to use unfair tactics or blame others. They each need to manage their own emotions and recognise when a tipping point is being reached between being able to resolve a matter between themselves and when they should seek assistance from the Mayor (or Deputy Mayor if the Mayor is a party to the matter), to help them work through any outstanding concern that have not been resolved together.



2. FORMAL FACILITATION AND MEDIATION WITH THE MAYOR

Councillors should use mediation to assist in resolving a dispute. Mediation is where the parties are assisted to achieve a negotiated resolution by the Mayor and maintain control of the outcomes, rather than have someone else decide how it is to be resolved.

Mediation can be used where the parties consider a safer space for a respectful discussion on the issues can be established. The involvement of the Mayor provides a third person to assist the discussion and assists in maintaining a constructive on-going relationship between the parties.

The Mayor's role is not to take sides in the dispute or give legal, financial or expert advice, or provide counselling. It is not for the Mayor to tell the parties what to agree on or decide which party is 'right' or 'wrong'.

The Mayor should not mediate disputes where he or she has a conflict of interest in the matter or where it is likely that they might be perceived as being influenced by a personal interest in the matter. Where these circumstances arise, the Mayor is to appoint the Deputy Mayor as the mediator.

If the Mayor and Deputy Mayor are both unable to mediate the matter, the Mayor is able to ask the Chief Executive Officer to appoint an independent mediator with appropriate skills and qualifications to mediate the dispute.

Documenting the matters to the dispute and the agreements reached by the parties, along with timelines for any actions to be implemented, allows all parties to understand their respective responsibilities.

Failure to implement those responsibilities, timelines and agreements by any party will be treated as a breach of this Code of Conduct. It will trigger the escalation to an Internal Arbitration Process. This may progress solely against the individual that has breached the requirements of the agreement.

3. EXTERNAL MEDIATION

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

A Councillor or a group of Councillors may make an application for a dispute to be referred for external mediation to the Councillor Conduct Officer (CCO). The applicant is to submit a written application to the CCO setting out the name of the Councillor(s) and the details of the dispute. The application is to indicate that the application is for an 'external mediation'.

Failure to implement the responsibilities, timelines and agreements reached by both parties in the presence of the Independent Mediator will be treated as a breach of this Code of Conduct.

4. INTERNAL ARBITRATION PROCESS

Sections 141, 143 and 144 of the Act and the Regulations, set out the process to be undertaken for an Internal Arbitration Process applicable to any breach of the prescribed standards of conduct, should negotiation or mediation be unresolved.

Section 143 of the Act allows an application to be made by the Council, following a resolution of Council, or a Councillor or a group of Councillors. An application must be made within three months of the alleged misconduct occurring.

An application must be given to the *Principal Councillor Conduct Registrar*, via the CCO, in the manner specified by the Principal Councillor Conduct Registrar in any guidelines published under section 149(1)(c) of the Act.

Section 147 of the Act allows an Arbiter to impose sanctions on a finding of misconduct.



As Councillors, we are committed to abide by these Dispute Resolution principles.

5. SERIOUS MISCONDUCT

Serious gross misconduct includes all matters in section 3(1) - Definition of Serious Misconduct of the Act. Allegations of these breaches may be dealt with by a Councillor Conduct Panel.

These matters include:

- refusal of a Councillor to abide by internal arbitration process;
- complying with the directions of a Arbiter;
- failing to attend a Councillor Conduct Panel hearing;
- failure to comply with the direction of a Councillor Conduct Panel;
- continued misconduct, after a finding of misconduct has been made;
- bullying or sexual harassment;
- the disclosure of confidential information;
- contravening the requirement a Councillor must not direct, or seek to direct, a member of Council staff;
- or a breach of conflict of interest obligations.

The Act states that an allegation of serious misconduct can be made by a Council, a Councillor or a group of Councillors or the Chief Municipal Inspector. The application is to be managed through the CCO.

Allegations of serious misconduct will be reviewed by *Principal Councillor Conduct Registrar* undertaking the Councillor Conduct Panel Process which may suspend the Councillor for up to 12 months, reprimand the Councillor, or direct that an apology be given.

Unless the Councillor Conduct Panel decides otherwise, a finding of the Panel will prevent a Councillor from becoming Mayor or Deputy Mayor.

GROSS MISCONDUCT

Gross misconduct by a Councillor is defined under section 3(1) - Gross Misconduct of the Act. It means any behaviour that demonstrates that a Councillor:

- a) is not of good character; and
- b) is otherwise not a fit and proper person to hold the office of a Councillor, including behavior that is sexual harassment and that is of an egregious nature.

The Act makes provision for only the Chief Municipal Inspector to allege Gross Misconduct by a Councillor. The Councillor and the respondent will then be parties to a proceeding commenced in VCAT under this section of the Act.

VCAT may order that a Councillor is disqualified for up to eight years and that the office of the Councillor is vacated.



*South Gippsland
Shire Council*