



COUNCILLOR CODE OF CONDUCT

January 2017 (Version 9)

Adopted 24 January 2017

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COUNCILLOR CODE OF CONDUCT¹ (CODE)

This Code was adopted by resolution of the Golden Plains Shire Council at a Special Meeting held for the purpose of reviewing this Code on 24 January 2017 and in accordance with section 76C of the *Local Government Act 1989*.

INTRODUCTION

The Golden Plains Shire Council consists of Councillors who are democratically elected by the voters of Golden Plains Shire in accordance with the *Local Government Act 1989* (the Act).

As Councillors of Golden Plains Shire, we are committed to:

Working Together

- acknowledging and respecting that a diversity of opinion exists among us;
- recognising that each of us has different life experience, knowledge and values and that all of these contribute collectively to our discussions;
- behaving with courtesy towards each other, Council officers and our citizens;
- conforming to the policy, Local Law 1 and precedents that guide the conduct of meetings;
- attending punctually and participating in all relevant meetings, workshops and briefings;
- sharing reasonably in the representation, ceremonial and hosting tasks of the full Council; and
- honouring the majority decisions made by Council, irrespective of our own position and explaining these decisions frankly to the community, once made.

Behaving With Integrity

- identifying our financial and personal interest, or potential interest, in any matter that comes before Council;
- being honest and truthful;
- complying with laws and the regulations deriving therefrom;
- respecting Council property and being frugal in its use, where allowed;
- avoiding using our position for personal gain, or to achieving advantage over others, or to obtaining preferential treatment;
- being sympathetic to the legitimate concerns of our citizens;
- acting impartially when making decisions and have due regard to the needs of the community as a whole, rather than that of narrow vested interest; and
- acknowledging the role of Council officers in providing advice to us and in implementing Council decisions.

Making Competent Decisions

- without diminishing the short term focus, approaching decisions with due regard to the long term needs of the municipality;
- forming policies with regard to the needs of the entire Shire;
- directing our attentions to the strategic and statutory needs of the municipality rather than short term, transient, operational issues;
- seeking to fully inform ourselves on the issues before Council before making a decision;
- taking all reasonable steps to improve our knowledge of matters relevant to our municipal duties; and
- using and respecting the professional knowledge of Council officers and other advisers to Council.

¹ Section 76C(1) of the *Local Government Act 1989* (the Act) requires each Council within the period of 4 months after a general election to call a special meeting solely for the purpose of reviewing the Councillor Code of Conduct and at that special meeting to approve any amendments to be made to the Councillor Code of Conduct determined by the Council to be necessary following the review of the Councillor Code of Conduct.

ROLE OF THE COUNCIL

The primary role of Council is to provide leadership for the good governance of Golden Plains Shire. It 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 our achievement;
- maintaining the viability of 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.

ROLE OF COUNCILLORS

The role of a Councillor is—

- to participate in the decision-making of the Council; and
- to represent the local community in that decision-making; and
- 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.

In performing the role of a Councillor, a Councillor must—

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

We agree to comply with the role of a Councillor.

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.

FUNCTIONS OF MAYOR

The functions of the Mayor of Council include:

- 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 Code by Councillors under sections 76B, 76BA and 76C; and
- acting as the principal spokesperson for the Council; and
- supporting good working relations between Councillors; and
- carrying out the civic and ceremonial duties of the office of Mayor.

COUNCILLOR CONDUCT PRINCIPLES

In performing our role as Councillors, we will:

- act with integrity; and
- impartially exercise our responsibilities in the interests of the local community; and;
- not improperly seek to confer an advantage or disadvantage on any person.

In addition, in performing our role as Councillors, we will:

- avoid conflicts between our public duties as a Councillor and our 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 staff and other persons;
- exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our 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 us as elected representatives;
- 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.

Councillors are required to conduct themselves in observance of the primary principle and the general principles. We undertake to do this.

COUNCILLOR BEHAVIOURS

We will adhere to the following principles of behaviour in our conduct as Councillors:

- Treating all people with **courtesy and respect**, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities.
This includes:
 - treating members of the community with dignity and ensuring that neither offence nor embarrassment are knowingly caused;
 - treating fellow Councillors with respect, even when disagreeing with their views or decisions;
 - ensuring punctual attendance at Council and Committee meetings; and
 - acting with courtesy towards Council staff and avoiding intimidatory behaviour.
- Always acting with **integrity and honesty**;
 - being honest in all dealings with the community, with other Councillors and with Council staff;
 - always acting with impartiality and in the best interests of the community as a whole;
 - not acting in ways that may damage Council or its ability to exercise good government;
 - exercising reasonable care and diligence in performing our functions as Councillors; and
 - complying with all relevant laws, be they Federal, State or Local Laws.
- Recognising that we hold a **position of trust** and should not misuse or derive undue benefit from our positions
 - we will avoid conflicts of interest and comply with the relevant provisions of the Act and this Code of Conduct relating to interests and conflicts of interest;
 - we will not exercise undue influence on other Councillors, members of Council staff or members of the public to gain or attempt to gain an advantage for ourselves;

- we should adhere to the requirements of the *Local Government Act 1989*² with regards to conflicts of interest and applicable gifts.
- Exercising appropriate prudence in the use of **Council resources**. This includes:
 - maintaining appropriate separation between our personal property and public property in the care of the Council;
 - not using public resources, including staff and equipment for electoral or other personal purposes;
 - ensuring that claims for out of pocket expenses are accurate and relate strictly to Council business.
- Treating **Council information** appropriate by:
 - not using information gained by virtue of being a Councillor for any purpose than to exercise our role as a Councillor;
 - respecting Council's policies in relation to public comments and communications with the media;
 - not releasing information deemed 'confidential information' in accordance with section 77 of the Act; and
 - recognising the requirements of the *Information Privacy Act 2000* regarding the access, use and release of personal information.

COUNCIL DECISION MAKING

We are committed to approaching **decision making** by:

- ensuring that all decisions are impartial, transparent and accountable and in the best interests of the whole community;
- acknowledging that effective decision-making is vital to the democratic process; and
- acknowledging that decision-making is an essential component of good governance.

CONFIDENTIALITY

We acknowledge that we will comply with our obligations in relation to confidential briefings or confidential information³ and recognise that this obligation extends to ensuring the safekeeping of confidential information.

CONFLICT OF INTEREST PROCEDURES

We are committed to making all decisions impartially and in the best interests of the whole community. We therefore recognise the importance of fully observing the requirements of the *Local Government Act 1989*⁴ in regard to the disclosure of Interests and Conflicts of Interest.

We should comply with all the provisions of the Act (Section 77A to 80A) by disclosing conflicts of interest:

- in Council meetings,
- in meetings of special committees
- in audit committees and section 223 committees, and
- in meetings that are classified as assemblies of Councillors.

We recognise that the legal onus to determine whether a conflict of interest exists, rests entirely with each individual Councillor and that Council officers cannot offer any advice in relation to potential conflicts. If we cannot confidently say that we do not have a conflict of interest, we will declare a conflict of interest and comply the relevant requirements as if we had a conflict of interest.

² Sections 76B, 76BA, 76C, 76D, 76E, 77, 77A, 77B, 78, 78A, 78B, 78C, 78D, 78E, 79, 79B, 79C, 79D of the *Local Government Act 1989*.

³ Section 77 of the *Local Government Act 1989*

⁴ Section 77A – 80A of the *Local Government Act 1989*.

If we consider that we are unable to vote on a matter because of a conflict of interest, we will notify, as soon as possible, the Mayor or the Committee Chair, depending on whether the matter is to be considered by Council, a special committee, or an assembly of Councillors, as well as the Chief Executive Officer.

DISPUTE RESOLUTION PROCEDURES

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves, recognising that they have been elected to represent the best interests of the community. 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 procedures.

The Council's three phase dispute resolution process involves:

- Direct negotiation between the parties in dispute with the Mayor in attendance to provide guidance;
- External mediation by an independent mediator engage by the Mayor; and
- An internal resolution procedure involving an independent arbiter.

Phase 1 – Direct Negotiation

This dispute resolution procedure is intended to be used when Councillors have been unable to resolve an interpersonal conflict and where the situation is unduly affecting the operation of Council. It is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in Council and committee meetings.

A 'Dispute' should be considered to be declared if Council resolves that its operation is being impeded because of a dispute between some or all of the Councillors. The resolution should state the reasons why public resources should be allocated to resolve the dispute.

If the Mayor receives advice in writing from one or more Councillors that they are unable to effectively perform their role because of a dispute between Councillors and that attempts to resolve the dispute have not been effective, the Mayor should bring the matter to Council's attention and Council may resolve that a Dispute be declared.

Irrespective of the above, Council should not undertake a dispute resolution procedure if it appears that the procedure is likely to overlap with an election period for a Council election.

Phase 2 – External Mediation

If a Dispute is declared, Council will, as soon as is feasible:

- approve the appointment by the Mayor of an independent and suitably qualified mediator or conciliator who is acceptable to the Councillors who are the parties in the dispute;
- failing agreement on the appointment of a mediator by the Mayor one nominated by the President of the Municipal Association of Victoria and appointed by the Mayor; or
- decide that a mediator or conciliator should not be appointed.

Council may only decide that a mediator or conciliator should not be appointed if one of the following applies:

- the dispute is limited to matters of policy and decision making: or
- an alternative approach, which is demonstrated to be more appropriate to the particular circumstance, is approved.

If a mediator or conciliator is appointed, all Councillors should cooperate with the dispute resolution process and provide reasonable assistance to the mediator or conciliator when requested.

At the conclusion of the dispute resolution process, Council should consider a report in a meeting open to the public that includes:

- an independent report from the mediator or conciliator (except where the independent report must be considered in a closed meeting);
- the recommendations of the mediator or conciliator;
- the actions being taken as a consequence of the dispute resolution process; and
- an estimate of the full cost to Council of conducting the mediation process.

Phase 3 – Internal Resolution Procedure - Arbitrator

The Director for Corporate Services has been appointed by the CEO as the Principal Conduct Officer for Golden Plains Shire Council to assist the Council in the conduct of this internal resolution procedure.

If the Chief Executive Officer, Mayor or the Principal Conduct Officer receives advice in writing from one or more Councillors that there is an alleged contravention of the Code, the Mayor will approve the appointment of an independent and suitably qualified arbitrator who is able to carry out the role of arbitrator fairly.

The arbitrator's role is:

- to consider the written applications alleging a contravention of the Code by a Councillor
- to make findings in relation to any written application alleging a contravention of the Code which the arbitrator must give to Council

The Councillor, affected by the receipt of a written application by the arbitrator, is entitled to be heard by the arbitrator and the arbitrator will arrange an appointment to meet and discuss the application with the Councillor. The arbitrator will provide written reasons for any findings to the Councillor.

If the Arbitrator finds contravention of the standards of behaviour that Councillors have adopted, the following sanctions may be imposed in written directions by Council:

- Requiring an apology in a manner specified by Council
- Not attend up to two council meetings
- Direction that the Councillor does not attend or chair an advisory or special committee for up to two months
- Direction that the Councillor be removed from a position where they represent Council for up to two months.

In the event that a dispute outcome is misconduct or serious misconduct, the dispute may be referred to a Councillor Conduct Panel by application to the Principal Councillor Conduct Registrar.

REGISTER OF INTERESTS

Section 81 of the Act requires every Councillor to lodge a 'primary return' when first elected and thereafter to lodge an 'ordinary return' every six months while in office. These Register of Interest returns record certain private interests that may give rise to conflicts of interest.

RECORDING GIFTS

We will not accept gifts either in our role as Councillor or where it could be perceived to influence us in our role as a Councillor except:

- where the gift would generally be regarded as only having a token value and could not be perceived to influence our actions as a Councillor
- where refusal may cause offence or embarrassment, in which case we will accept the gift on behalf of Council and the gift become the property of the Council

FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER

The Chief Executive Officer is responsible for:

- establishing and maintaining an appropriate organisational structure for the Council; and
- ensuring that the decisions of the Council are implemented without undue delay; and
- the day to day management of the Council's operations in accordance with the Council Plan; and
- developing, adopting and disseminating a code of conduct for Council staff; and
- providing timely advice to the Council; and
- ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act;
- supporting the Mayor in the performance of the Mayor's role as Mayor;
- carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Accident Compensation Act 1985 or the Workplace Injury Rehabilitation and Compensation Act 2013;
- managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors; and
- performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act.

COUNCIL RESOURCES

Council resources are to be used effectively and economically:

- we will maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role;
- we will not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so and payments are made where appropriate;
- we will not use public funds or resources in a manner that is improper or unauthorised.

RELATIONSHIPS WITH STAFF

As Councillors we understand that the relationship between elected officials and employed staff of the Shire is critical to ensuring that Council can meet its objectives and fulfil its obligations to the community. We will work as part of the Council team with the Chief Executive Officer and other members of staff. There must be mutual respect and understanding between Councillors and officers in relation to their respective roles, functions and responsibilities.

Our role is one of advocacy and leadership, rather than management and administration. The Chief Executive Officer is responsible for establishing and maintaining an appropriate organisational structure and for all relating staff matters.

We will be aware of the requirements of Section 76E of the *Local Government Act* 1989 and must not direct or seek to direct members of Council staff in the exercise of our duties. It is appropriate to notify either the Director or Manager when specific issues or particular functions are required to be undertaken.

As Councillors, we undertake to comply with the Chief Executive Officer's policies, practices and protocols that are introduced to define arrangements for interaction between Council staff and Councillors.

RELEVANT SECTIONS FROM THE LOCAL GOVERNMENT ACT 1989 APPLICABLE TO THIS CODE OF CONDUCT

- Section 3 Local Government Charter - Definitions
- Section 3B How is a Council constituted?
- Section 3D What is the role of a Council?
- Section 76AA Conduct and Interests - Definitions
- Section 76B Primary principle of Councillor conduct
- Section 76C Councillor Code of Conduct
- Section 76D Misuse of position
- Section 76E Improper direction and improper influence
- Section 77 Confidential information
- Section 77A Direct and indirect interests
- Section 77B Direct interest
- Section 78 Indirect interest by close association
- Section 78A Indirect interest that is an indirect financial interest
- Section 78B Indirect interest because of conflicting duties
- Section 78C Indirect interest because of receipt of an applicable gift
- Section 78D Indirect interest as a consequence of becoming an interested party
- Section 78E Indirect interest because of impact on residential amenity
- Section 79 Disclosure of conflict of interest
- Section 79B Conflicting personal interest
- Section 79C Certain situations where Councillor taken to not have a conflict of interest
- Section 79D Person may make submission despite conflict of interest
- Section 80 Exemption by Minister
- Section 80A Requirements to be observed by an assembly of Councillors
- Section 81 Register of interests
- Section 93B Council to adopt an election period policy
- Section 94 The Chief Executive Officer
- Section 98 Council administration - Delegations
- Section 139 Audit committee
- Section 193 Entrepreneurial powers
- Section 223 Right to make submission