

# **Model Councillor Code of Conduct and Internal Resolution Procedure**

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## Introduction and Purpose

As the elected representatives of the Shire of Towong, we have an important role in providing leadership to the municipality. While we may sometimes have different viewpoints, it is critical that we work together in the best interests of the municipality as a whole.

In doing this we are committed to living the vision and values of Towong Shire Council (Council) while adhering to the requirements of the *Local Government Act 2020* (LGA 2020).

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### Vision

Towong Shire will be the ideal place to be: welcoming, vibrant and diverse communities with quality facilities and services.

### Mission

To provide strong leadership and to work with our communities to enhance their social, economic and environmental wellbeing.

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### Values

#### Respect

We will listen and consider other perspectives and treat each other with courtesy.

#### Integrity

We will be honest with strong moral principles.

#### Pride

We will always take care in what we do.

#### Teamwork

We will help others to achieve by being positive, enthusiastic and confident.

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The purpose of this Model Councillor Code of Conduct and Internal Resolution Procedure is to outline the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors.

## 1. Governance Principles

The primary role of the Council is to provide good governance to the municipal district for the benefit and wellbeing of the municipal community. As required by LGA 2020, we will in the performance of our roles give effect to the overarching governance principles of LGA 2020:

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

In giving effect to the overarching governance principles, we will also take into account the following supporting principles of the LGA 2020:

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

## 2. Decision Making

We are committed to making good decisions impartially and in the best interest of the community. We understand that in line with the requirements of LGA 2020 decisions are to be made by a resolution of the Council. A resolution of the Council may include:

- A resolution at a Council meeting
- A resolution made at a meeting of a delegated committee
- The exercise of a duty, function or power made by a member of Council staff

or a Community Asset Committee under delegation.

In making decisions we are committed to:

- Transparent processes in line with our *Public Transparency Policy*
- Good community engagement in line with our *Community Engagement Policy*
- Sound participative meeting practices in line with our *Governance Rules*
- Adhering to all relevant legislation and regulation
- Seeking appropriate technical advice and expertise from the Administration.

As issues arise that may require Council consideration, we will work together and with the administration to develop an approach to forming a decision. Decisions are to be made with due consideration to the time required to seek the necessary inputs and hold the necessary discussions; urgent business should only be raised if the matter cannot be addressed through this process due to time constraints.

While significant work and discussion may occur prior to a Council meeting where a decision is made, we are committed to ensuring that the community understands all of the factors that contribute to the decision when it is presented at the Council meeting.

Once Council has made a decision, it becomes the collective decision of Council. While it is recognised that some Councillors may not support a decision, it is highly desirable that we present a united front to the public once the decision has been made. Dissent may be expressed but with due care to the reputation of Council and Councillors as an effective leadership team. In line with the requirements of LGA 2020 Councillors are not to publicly discredit or actively undermine the Council.

### **3. Roles and Responsibilities**

Towong Shire Council consists of democratically elected Councillors, including the Mayor; and the administration, consisting of the Chief Executive Officer and their staff.

Good governance relies on good relationships between all people who form part of the Council, and an understanding and respect for one another's role.

#### ***Role of Councillors***

Councillors are the democratically elected representatives of the community and play a key advocacy and leadership role. They are critical in facilitating community engagement with the activities and decisions of Council. There is an expectation that

Councillors will make decisions that benefit the long term interest of the whole community.

In line with the requirements of LGA 2020 we will uphold the role of Councillors:

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

In performing the role of a Councillor, we will:

- (a) consider the diversity of interests and needs of the municipal community; and*
- (b) support the role of the Council; and*
- (c) acknowledge and support the role of the Mayor; and*
- (d) act lawfully and in accordance with the oath or affirmation of office; and*
- (e) act in accordance with the standards of conduct; and*
- (f) comply with Council procedures required for good governance.*

Further we will respect that:

*The role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer.*

Councillors, sitting as Council, are responsible for appointing the Chief Executive Officer and developing and maintaining a *Chief Executive Officer Employment and Remuneration Policy*. We are effectively responsible for performance management of the Chief Executive Officer and set and monitor their progress against goals.

We will maintain an excellent working relationship with the Chief Executive Officer and keep them informed about relevant issues.

### ***Role of the Mayor***

The Mayor is the elected leader of the Council and this role is to be respected by all Councillors. The Mayor facilitates an inclusive approach to decision-making and involvement in Council activities, and supports good relationships amongst the Councillor team and between Councillors and the Administration. The Mayor sets the tone and style of behaviour, practice and projection of the Council working with, supporting and coordinating the team of Councillors.

In line with the requirements of LGA 2020 we will respect the role of the Mayor to:

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

The Mayor facilitates resolution of any Councillor disputes and is responsible for Councillors' training and development.

The Mayor maintains regular open communication regarding relevant issues with the Chief Executive Officer and with due regard to their respective roles.

### ***Role of Deputy Mayor***

The primary role of the Deputy Mayor is to play the role of the Mayor in the absence of the Mayor. In line with LGA 2020:

*The Deputy Mayor must perform the role of the Mayor and may exercise any of the powers 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.

### **Role of the Chief Executive Officer**

The Chief Executive Officer (CEO) is accountable to the Mayor and the Councillors for delivering Council's strategies and services. The CEO maintains the organisational structure and fosters a positive culture, while helping to manage the relationship between the Councillors and the Administration.

In line with LGA 2020 the role of the CEO is:

- (a) supporting the Mayor and the Councillors in the performance of their roles; and*
- (b) ensuring the effective and efficient management of the day to day operations of the Council.*

Without limiting the generality of this role, this responsibility includes the following—

- (a) ensuring that the decisions of the Council are implemented without undue delay;*
- (b) ensuring that the Council receives timely and reliable advice about its obligations under this Act or any other Act;*
- (c) supporting the Mayor in the performance of the Mayor's role as Mayor;*
- (d) setting the agenda for Council meetings after consulting the Mayor;*
- (e) when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision;*
- (f) 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 Workplace Injury Rehabilitation and Compensation Act 2013.*

### **Role of Council Staff**

Council staff provide support, advice and information to Council and Councillors through the CEO to support the democratic process and ensure good governance. They are responsible for delivering programs and services (within budgets), exercising their Council delegations, implementing Council decisions and ensuring compliance with relevant legislation.

If we require information or need to provide feedback to Council staff we will direct the enquiry through the CEO or a Director to best support consistent communication, accountability and appropriate task management. This also helps to avoid a Councillor unintentionally directing a member of staff in contravention of the misuse of position requirements of LGA 2020, or being perceived to do so.



Council staff are to inform their Director about any contacts with Councillors where Council business including operational matters were discussed.

If we receive a complaint from an officer about organisational issues we will direct them to Council's *Issue Resolution Policy* in the first instance.

If we wish to complain about a member of Council staff we will direct the complaint to the Chief Executive Officer or the relevant Director.

#### **4. Standards of Conduct**

The LGA 2020 and supporting regulations places obligations on Councillors in relation to the way they should act. It also prohibits certain conduct by Councillors and prescribes penalties for Councillors who contravene these provisions.

In line with the requirements of *Local Government (Governance and Integrity) Regulations 2020*, we will respect the following standards:

##### **1. Performing the role of a Councillor**

*A Councillor must do everything reasonably necessary to ensure that they perform the role of a Councillor effectively and responsibly, including by:*

- (a) representing the interests of the municipal community by considering and being responsive to the diversity of interests and needs of the municipal community; and*
- (b) being fit to perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and*
- (c) diligently using Council processes to become informed about matters which are subject to Council decisions; and*
- (d) not performing or purporting to perform any responsibilities or functions of the Chief Executive Officer; and*
- (e) acknowledging and supporting the Mayor in the performance of the role of the Mayor, including by:*
  - (i) respecting and complying with a ruling of the Mayor as the chair of Council meetings (unless dissenting from the ruling in accordance with the Council's Governance Rules); and*
  - (ii) refraining from making public comment, including to the media, that could reasonably be perceived to be an official comment on behalf of the Council where the Councillor has not been authorised by the Mayor to make such a comment.*

## 2. Behaviours

- (1) A Councillor must treat others, including other Councillors, members of Council staff and members of the public, with dignity, fairness, objectivity, courtesy and respect, including by:
- (a) not engaging in demeaning, abusive, obscene or threatening behaviour, including where the behaviour is of a sexual nature; and
  - (b) not engaging in behaviour that intentionally causes or perpetuates stigma, stereotyping, prejudice or aggression against a person or class of persons; and
  - (c) not engaging in discrimination or vilification; and
  - (d) supporting the Council, when applying the Council's community engagement policy, to develop respectful relationships and partnerships with Traditional Owners, Aboriginal community controlled organisations and the Aboriginal community; and
  - (e) supporting the Council in fulfilling its obligation under the Act or any other Act (including the **Gender Equality Act 2020**) to achieve and promote gender equality; and
  - (f) ensuring their behaviours and interactions with children are in line with the Council's policies and procedures as a child safe organisation and obligations under the **Child Wellbeing and Safety Act 2005** to the extent that they apply to Councillors.
- (2) A Councillor, as an individual at the workplace, must take reasonable care for their own health and safety and take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons by:
- (a) adhering to applicable systems and policies put in place by the Chief Executive Officer to manage risks to health and safety in the workplace; and
  - (b) complying, so far as the Councillor is reasonably able, with any reasonable instruction that is given by the Chief Executive Officer to manage risks to health and safety.
- (3) A Councillor must act in accordance with any policies, practices and protocols developed and implemented under section 46 of the Act that support arrangements for interactions between members of Council staff and Councillors.

### **3. Good Governance**

*A Councillor must comply with the following Council policies and procedures required for delivering good governance for the benefit and wellbeing of the municipal community:*

- (a) the Council's expenses policy adopted and maintained under section 41 of the Act;*
- (b) the Council's Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act, including in relation to:
 
  - (i). conduct in Council meetings or meetings of delegated committees; and*
  - (ii). requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication; and*
  - (iii). (iii) the Council's election period policy included in the Council's Governance Rules under section 69 of the Act, including in ensuring that Council resources are not used in a way that is intended to influence, or is likely to influence, voting at a general election or by-election;**
- (c) the Council's Councillor gift policy adopted under section 138 of the Act;*
- (d) any direction of the Minister given under section 175 of the Act.*

### **4. Integrity**

- (1) A Councillor must act with integrity, exercise reasonable care and diligence and take reasonable steps to avoid any action which may diminish the public's trust and confidence in the integrity of local government, including by:
 
  - (a) ensuring that their behaviour does not bring discredit upon the Council; and*
  - (b) not deliberately misleading the Council or the public about any matter related to the performance of their public duties; and*
  - (c) not making Council information publicly available where public availability of the information would be contrary to the public interest.**

**Note**

*See the public transparency principles set out in section 58 of the Act.*

- (2) A Councillor must not, in their personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), expressly or impliedly request preferential treatment for themselves or a related person or entity.*

## **5. The Model Councillor Code of Conduct does not limit robust public debate**

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

## **5. Specific Councillor Conduct Obligations**

### ***Gifts, Benefits or Hospitality***

We will avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment. We will respond to offers of gifts or hospitality in line with Council's *Gift Policy* and the requirements of LGA 2020.

### ***Use of Council Resources***

We will use Council resources effectively and economically and in line with the requirements of Council's *Councillor Support and Expenses Policy*. Council resources are only to be used for the purposes of duties as a Councillor and not for private purposes unless authorised to do so. We will maintain adequate security over Council property and information.

### ***Elections***

We are committed to fair and democratic Council elections and therefore adopt and endorse the practices and legislative requirements set out in Council's *Election Period Policy* that forms part of Council's *Governance Rules* and the provisions of LGA 2020.

### ***Conflict of Interest***

We will identify, manage and disclose any conflicts of interest that we may have in line with the requirements of Council's *Governance Rules* and the provisions of LGA 2020. We will give early notice to the Mayor and the Chief Executive Officer as to the conflict and seek advice from the Chief Executive Officer if we need assistance on interpretation.

We recognise that the legal onus to determine whether the conflict exists rests entirely with each individual Councillor. If we cannot confidently say whether a conflict exists, we will declare the potential conflict.

### ***Human Rights and Equal Opportunity***

We will take positive action to eliminate discrimination and bullying in accordance with the *Equal Opportunity Act 2010* and support Council in fulfilling its obligation to achieve and promote gender equality. We will treat all people with dignity and respect and have due regards for the opinions, beliefs, rights and attributes of others. We will not discriminate against, bully, vilify or victimise any individual.

### ***Sexual Harassment***

Sexual harassment is against the law and will not be tolerated under any circumstances. We will take positive action to eliminate sexual harassment in accordance with the *Equal Opportunity Act 2010*. We will not engage in any unwelcome conduct of a sexual nature towards another individual where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the individual would be offended, humiliated or offended.

### ***Fraud and Corruption***

We will take positive action to eliminate fraud or corrupt behaviour and support Council's obligations under the *Public Interest Disclosures Act 2012*. We will immediately report to the Chief Executive Officer and / or an appropriate integrity body any suspected, potential or actual fraudulent, criminal, unethical or corrupt behaviour in line with Council's *Public Interest Disclosures Policy*.

### ***Misuse of Position***

In line with section 123 of LGA 2020, we will not intentionally misuse our position to gain an advantage for ourselves or any other person, or to cause detriment to the Council or another person. Offences under this section of LGA 2020 are indictable. Circumstances including misuse of position include:

- a) *making improper use of information acquired as a result of the position the person held or holds; or*
- b) *disclosing information that is confidential information; or*
- c) *directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or*
- d) *exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or*
- e) *using public funds or resources in a manner that is improper or unauthorised; or*
- f) *participating in a decision on a matter in which the person has a conflict of interest.*

## 6. Internal Dispute Resolution Procedures

In accordance with regulation 12A of the *Local Government (Governance and Integrity) Regulations 2020*, Council must implement and adopt an internal dispute resolution procedure to deal with alleged breaches of the Model Councillor Code of Conduct.

Disputes between Councillors may arise in a variety of circumstances. This Procedure is to apply to those disputes in which one Councillor (**the Complainant**) alleges that another Councillor (**the Respondent**) has breached the Model Councillor Code of Conduct.

This Procedure provides both parties to a dispute with support and encouragement to resolve the dispute in a manner that enables the Councillors to move forward and maintain effective working relationships.

This Procedure is designed to minimise cost and disruption of disputes to Council and individual Councillors and, where possible, avoid disputes escalating and becoming the subject of an internal arbitration.

It is acknowledged that this Procedure will not be suitable for resolution of all disputes between Councillors.

An overview of the Procedure is annexed, in the form of a flowchart.

Council's dispute resolution procedure comprises three components, namely:

- 1) Discussion
- 2) Conciliation
- 3) Internal Arbitration

A Councillor or a group of Councillors may make an application for a dispute to be referred for external mediation or internal arbitration regardless of whether self-resolution or Mayoral negotiation have been attempted, however it is preferred that these options are exhausted first.

## ***Discussion***

A Complainant is encouraged to raise their issue directly with the Respondent in a respectful and courteous manner, either in person or in writing, where they feel comfortable to do so.

Councillors are encouraged to recognise that:

- a) certain behaviours and communications may be perceived by others to be causing issues or offence that may not have been intended;
- b) it can provide useful insight to reflect on their own behaviour or motivation and possible contribution to the dispute, whether intended or not; and
- c) dealing with the dispute early is more likely to avoid the issue escalating and resolve it before it threatens the effective operation of Council.

It is useful to frame any issue from the Councillor's perspective (eg "I felt disrespected when you said / did ..."), rather than accusing another person of holding a particular position or taking a negative action deliberately. A Councillor should let the other Councillor know how they feel and ask for an explanation, rather than making accusations or assumptions.

## ***Conciliation***

Where a direct conversation between Councillors has not been successful in resolving the dispute, or a Councillor does not feel comfortable communicating directly with another Councillor, the second stage of this Procedure is conciliation.

### *1. Initiating conciliation*

A Complainant initiating conciliation must notify the Mayor and the Respondent of the dispute by completing a Conciliation Application Form. That form (see Attachment 1 to this Procedure) must:

- a) specify the names of the Complainant and Respondent;
- b) specify the provision (or provisions) of the Model Councillor Code of Conduct alleged to have been breached;
- c) detail what was said or done by the Respondent to constitute a breach of the Model Councillor Code of Conduct;
- d) attach any supporting information to provide examples of the behaviour complained of (eg screenshots or emails); and
- e) be dated and signed by the Complainant.

## 2. *Participating in conciliation*

Councillors are not obliged to engage in conciliation but should only decline to participate if they honestly and reasonably believe that their participation would adversely affect their health or wellbeing or would otherwise be unsafe.

A Respondent declining to participate in the conciliation must advise the Complainant and the Mayor of their unwillingness to participate, and the reasons for it. That advice must be provided no more than one week after receiving the Conciliation Application Form.

## 3. *Conduct of conciliation*

Conciliation is to be conducted by the Mayor except when the Mayor is a party to the dispute or otherwise unavailable to conduct conciliation. In that case the Deputy Mayor will assume the role of the Mayor in the conciliation process. If both the Mayor and the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct the conciliation, the role of the Mayor must be performed by a Councillor jointly chosen for the purpose by the parties. When, in this Procedure, reference is made to the Mayor it includes:

- a) the Deputy Mayor; and
- b) a Councillor jointly chosen for the purpose by the parties,

when the Mayor and/or the Deputy Mayor are parties to the dispute or otherwise unavailable to conduct a conciliation.

## 4. *Roles and responsibilities*

The role of the Mayor is to provide guidance to the parties to the dispute about the Standards of Conduct in the Model Councillor Code of Conduct, and actively explore whether the dispute can be resolved by agreement between them.

The role of the Complainant and Respondent is to explain their respective positions and, in a show of goodwill, actively explore the possibility of resolving the dispute by agreement.

All Councillors are responsible for conducting themselves in a courteous and respectful manner at all times during the conciliation.



The role of the Councillor Conduct Officer is to provide the Mayor with the administrative support necessary to arrange and conduct the conciliation.

#### 5. *Support from Council*

Council, through the Councillor Conduct Officer, will provide administrative assistance to the Mayor when arranging a time and place for conciliation, including any technical assistance that may be required. Council will make a venue available to the Councillors within Council's offices that is private and suited to the conciliation process.

Council will not provide any substantive guidance or advice about the subject matter of the dispute, or pay the costs of legal advice or representation for any Councillor in connection with this Procedure. Parties to a dispute may seek their own legal or other advice at their own cost, if they choose to do so.

#### 6. *End or termination of conciliation*

Conciliation will end or be terminated if any of the following occurs:

- a) the parties cannot jointly choose a Councillor to conduct the conciliation within one week of being asked to do so;
- b) the Respondent notifies the Mayor that they do not wish to participate in conciliation, and the reasons for it, within one week of receiving the Conciliation Application Form;
- c) the Respondent does not respond to the Conciliation Application Form at all within two weeks of receiving it;
- d) conciliation has not occurred within four weeks of the Complainant submitting the Conciliation Application Form;
- e) conciliation has occurred and the parties have been unable to resolve the dispute; or
- f) the dispute has been resolved.

The time for conciliation may be extended by agreement between the parties to the dispute, whether or not the matter has been escalated to one of the formal dispute resolution procedures outlined in the Act.

#### 7. *Confidentiality*

Parties and other participants are expected to maintain confidentiality concerning the dispute and the operation of this Procedure.

## 8. *Record of Outcome*

The Mayor must document any agreement that is reached between the Complainant and Respondent. The agreement must be signed by the Complainant, Respondent and Mayor. Copies must be provided to the Complainant and Respondent, and the original must be retained by the Mayor. Again, parties and the Mayor are expected to maintain the confidentiality of the agreement reached.

### ***Internal Resolution Procedure does not Apply in these Circumstances***

The following disputes are not covered by this Procedure:

- a) differences between Councillors in relation to policy or decision making, which are appropriately resolved through discussion and voting in Council meetings;
- b) complaints made against a Councillor or Councillors by a member or members of Council staff, or by any other external person;
- c) allegations of sexual harassment;
- d) disclosures made about a Councillor under the Public Interest Disclosures Act 2012, which can only be made to the Independent Broad-based Anti-corruption Commission; and
- e) allegations of criminal misconduct, which should be immediately referred to Victoria Police or the relevant integrity authority.

### ***Formal Dispute Resolution Procedure***

This Procedure operates alongside, and does not replace, the formal dispute resolution procedures outlined in the Act.

The formal dispute resolution procedure applies to misconduct, serious misconduct and gross misconduct.

Section 141 of the Act provides for an internal arbitration process concerning a breach of the Standards of Conduct set out in the Model Councillor Code of Conduct.

## **7. Breaches of the Prescribed Standards of Conduct**

### ***Internal Arbitration***

If a Councillor is suspected of breaching the prescribed standards of conduct, an internal arbitration process may be pursued in line with section 141 of LGA 2020.

An application for internal arbitration may be made by the Council, following a resolution of the Council; a Councillor; or a group of Councillors. It must be made within three months of the alleged misconduct occurring, and is to be given to the Principal Councillor Conduct Registrar as specified by section 149 of the LGA 2020.

Councillors may refer to the Councillor Conduct Officer appointed by the CEO to assist in the implementation of the arbitration process.

If the Principle Councillor Conduct Registrar is satisfied that the matter warrants arbitration given the evidence at hand, they will appoint an arbiter from the state's panel list. If the arbiter believes at any stage that the subject of the application involves serious misconduct as defined by LGA 2020, it will be referred to the Principal Councillor Conduct Registrar for hearing by a Councillor Conduct Panel.

The arbiter will ensure that parties involved are given an opportunity to be heard. If after completing the arbitration process, the arbiter determines that there has been a breach of the prescribed standards of conduct, they may make a finding of misconduct and direct the Councillor to make an apology, suspend the Councillor from office for up to one month, and / or direct a Councillor to attend training or counselling.

### ***Serious Misconduct***

A Councillor Conduct Panel may be appointed in the case that the application alleges serious misconduct by a Councillor. An application to make a finding of serious misconduct may be made by the Council following a resolution of Council; a Councillor or a group of Councillors; or the Chief Municipal Inspector.

An application regarding serious misconduct must be made within 12 months of the alleged misconduct occurring. The application must satisfy the form prescribed by section 154 of LGA 2020 and is to be made to the Principle Councillor Conduct Registrar.

If the Registrar is satisfied that the application warrants the appointment of a Panel given the evidence at hand, they will form a Councillor Conduct Panel from the state

panel list. The Panel may request persons to attend a hearing, request information from the applicant, the respondent of the Council, and may direct a Councillor to attend a hearing. They must provide the respondent with an opportunity to be heard.

If the Councillor Conduct Panel finds that a Councillor has committed an offence, they will notify the Chief Municipal Inspector and may reprimand the Councillor, direct them to make an apology, suspend them from office for a period of up to 12 months, and / or make them ineligible to chair a delegated committee of Council for the remainder of the Council term. The Councillor becomes ineligible from holding the office of Mayor or Deputy Mayor for the remainder of the Council term unless the Panel decides otherwise.

The Panel may also determine that remedial action is required such as mediation, training or counselling.

A person who is affected by the decision made by a Councillor Conduct Panel may apply to VCAT for review of the decision.

### ***Gross Misconduct***

If the Chief Municipal Inspector determines that a Councillor has engaged in gross misconduct as specified by LGA 2020 they may refer an application to VCAT. If VCAT supports the finding they may order that the Councillor is disqualified from continuing as a Councillor for up to 8 years.

### ***Other Penalties***

Other penalties such as fines and indictment may occur depending on the nature of the breach in accordance with any relevant legislation and regulation.

### ***Suspension during Election Period***

All applications and proceedings are suspended during the election period for a general election. If the Councillor is not returned to office the application lapses, unless it is for an application for gross misconduct in which case it must resume after the election is held regardless of whether the person is returned to office.

## **8. Legislative Context**

Section 139 of the LGA 2020 requires a council to develop a Councillor Code of Conduct which contains the standards of conduct as prescribed by the regulations and any other prescribed matters. Schedule 1 of the *Local Government (Governance*

and Integrity) Regulations 2020 further indicates the model standards of conduct to be included in a Councillor Code of Conduct.

## 9. Human Rights Charter compatibility

This policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006 [Vic]*.

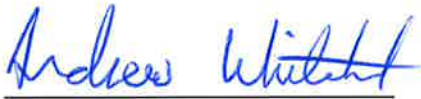
## 10. Definitions

Term	Definition
Conflict of Interest	Means a general conflict or material conflict as specified in Part 6, Division 2 of the <i>Local Government Act 2020</i> .
Councillor Conduct Officer	At Towong Shire means the Director Corporate and Organisational Development.
Discrimination	Means unfair or unfavourable treatment of a person on the grounds of an attribute specified in section 6 of the <i>Equal Opportunity Act 2010</i> .
Gross Misconduct	By a Councillor means behaviour that demonstrates that a Councillor— <ul style="list-style-type: none"> <li>(b) is not of good character; or</li> <li>(c) is otherwise not a fit and proper person to hold the office of Councillor, including behaviour that is sexual harassment and that is of an egregious nature</li> </ul>
Serious Misconduct	by a Councillor means any of the following— <ul style="list-style-type: none"> <li>(a) the failure by a Councillor to comply with the Council's internal arbitration process;</li> <li>(b) the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147;</li> <li>(c) the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor;</li> <li>(d) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel;</li> <li>(e) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor</li> </ul>

	<p>by an arbiter or by a Councillor Conduct Panel under section 167(1)(b);</p> <ul style="list-style-type: none"> <li>(f) (f) bullying by a Councillor of another Councillor or a member of Council staff;</li> <li>(g) conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff;</li> <li>(h) the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information;</li> <li>(i) conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff;</li> <li>(j) the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with this Act;</li> </ul>
<p>Sexual Harassment</p>	<p>person sexually harasses another person if he or she—</p> <ul style="list-style-type: none"> <li>(a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person; or</li> <li>(b) engages in any other unwelcome conduct of a sexual nature in relation to the other person—</li> </ul> <p>in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.</p>

## 11. Endorsement

This Code of Conduct was adopted by Council on 29 January 2025 and is signed by the following Councillors:



Cr Andrew Whitehead (Mayor)




Cr Peter Tolsher (Deputy Mayor)



Cr Denise Anderson



Cr Jonathon Pitman



Cr David Wortmann

## Appendix 1 – Conciliation Application Form

<b>Complainant:</b>	
<b>Respondent:</b>	
<b>Provisions of Model Councillor Code of Conduct breached:</b>	
<b>Action constituting breach:</b>  (Include dates, times and detailed descriptions of the action complained of. Attach further documents as necessary.)	

**Signed** by ..... )  
 )  
 )  
 on ..... )



## Appendix 2 – Internal Resolution Procedure Flowchart

