

# Councillor Code of Conduct



City of  
**KINGSTON**

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## 1 Document Information

The electronic version of this document is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

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# **Chapter 1**

## **Code of Conduct Framework**

*The City of Kingston recognises the traditional custodians of the land and waterways on which we live, work and play. We extend our respect to all Elders past, present and emerging and to all Aboriginal and Torres Strait Islander peoples who call Kingston home.*

## **1 Purpose**

This Councillor Code of Conduct documents Councillors commitment to each other, the community and meets all legislative requirements.

## **2 Definitions**

**the Act** means the Local Government Act 2020

**CCO** means Councillor Conduct Officer

## **3 Scope**

This Councillor Code of Conduct sets agreed standards of Councillor behaviour and provides guidance on how interpersonal issues and alleged breaches of this Councillor Code of Conduct may be managed.

The Councillor Code of Conduct also contains the Standards of Conduct prescribed in Regulation 12 of the Local Government (Governance and Integrity) Regulations 2020 pursuant to section 139(3)(a) of the Local Government Act 2020.

This Councillor Code of Conduct applies to all Councillors of the City of Kingston.

This Councillor Code of Conduct does not apply to members of Council staff of the City of Kingston.

This Councillor Code of Conduct reflects Councillors' commitment to conduct requirements contained in the Local Government Act 2020 (the Act).

This Councillor Code of Conduct does not prescribe procedures that involve alleged breaches of the Standards of Conduct or any form of misconduct under the Act.

This Councillor Code of Conduct does not extend to investigating breaches of the Local Government Act, which remain the responsibility of the Local Government Investigations and Compliance Inspectorate and other relevant integrity bodies.

## **4 Commitment to our 'ICARE' Values**

During the 2020-2024 Councillor Induction process, Councillors collaborated to develop a set of values to guide decision making and behaviour. The 'ICARE' values are:

*Integrity*

*Compassion*

*Accountability*

*Responsiveness*

*Empathetic and Informed.*

See Chapter 2 for further details.

## **5 Legislative context**

### **5.1 Overarching Governance Principles**

This Code of Conduct identifies the Overarching Governance Principles outlined in section 9 of the Act which if given effect will result in good governance outcomes.

While these principles are not a requirement of the Councillor Code of Conduct, Council is committed to giving effect to these principles in the performance of its role.

See Chapter 3 for further details.

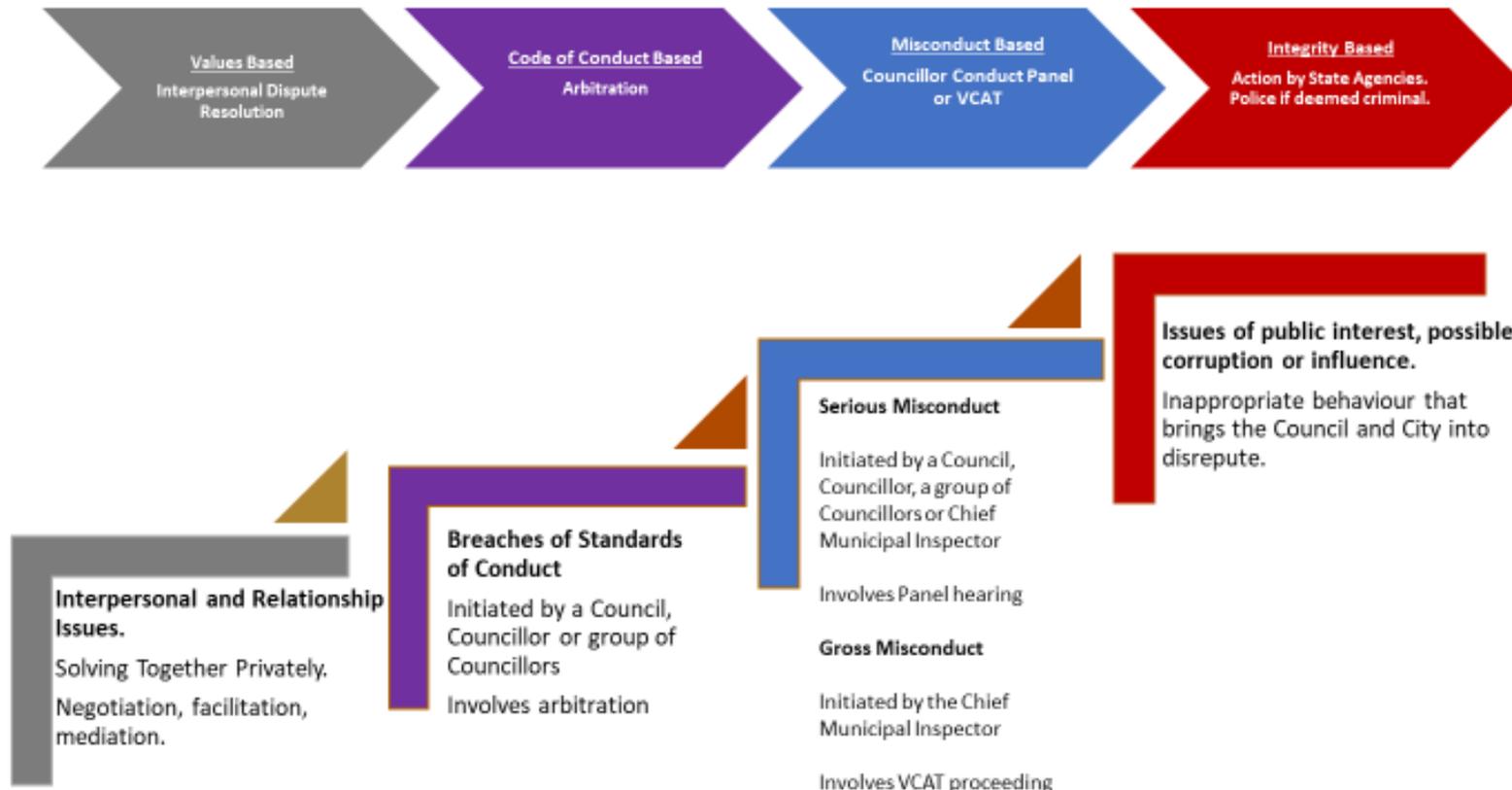
### **5.2 Standards of Conduct**

The Code of Conduct must include the Standards of Conduct which are expected to be observed by Councillors in the course of performing their duties and functions as Councillors. See Chapter 4 for further details.

## **6 Tiers of Councillor Conduct**

The following diagram provides an outline of the different tiers of Councillor Conduct, and the process for dealing with interpersonal disputes, breaches of the standards of conduct and alleged Councillor misconduct.

# Tiers of Councillor Conduct





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## **Chapter 2**

### **Our 'ICARE' Values**

## 1 Purpose

The City of Kingston Councillor Values (Councillor values) guide our decision making and conduct during our time as a Councillor. These values were developed and agreed upon as a commitment to each other in performing the role of Councillor in the interests of our community.

## 2 Our 'ICARE' Values

The following are the Councillor 'ICARE' Values:

### 2.1 Integrity

We are open, honest, transparent and act consistently as an individual and collective group.

### 2.2 Compassion

We are committed to operating in an inclusive and caring manner.

### 2.3 Accountability:

We take responsibility for our decisions, clearly explaining our processes and rationale.

### 2.4 Responsiveness:

We are focussed on outcomes based on clear reasoning and achieved in a timely manner.

### 2.5 Empathetic and Informed:

We holistically consider fact, emotion, perspective and reason.

These values are unique and distinct to Councillors of the City of Kingston that aim to uphold best practice behaviour, responsible interaction and decision-making that complement the Standards of Conduct prescribed in the Act.

These values are demonstrated by the following examples:

- *Being transparent by encouraging public scrutiny of decisions.*
- *Taking responsibility for assessing whether there are any conflicts of interest in any matter relating to their Council roles*
- *Explaining decisions openly and without obscurity.*
- *Endeavouring to not misrepresent Council's position on matters when engaging with the community via all methods of communication.*
- *Not implying that the Councillor is authorised to speak as a representative of the Council, nor give the impression that the views they express are those of the Council.*
- *Not using any email addresses, Council provided technology or any Council logos or insignia that may give the impression of official support or endorsement of a Councillor's personal comment.*
- *Seeking to provide a fair and accurate account of the issue.*
- *Ensuring that a Councillor's social media account is not used to host or disseminate misinformation*
- *Not speaking over the top of each other*
- *Debate the issue not the person*

- *Focus on feedback and not criticism in all communication*
- *Recognise that Councillors do not have parliamentary privilege and therefore should be very careful, especially in the heat of Council debate, not to make defamatory and misleading statements*
- *Be prepared for meetings by reading reports prior and thereby reduce the need for long presentations*
- *Seeking to promote civility and fact in spoken conversations or when engaging via social media, media releases or other electronic communication.*
- *Not posting or causing to be posted or distributing material that is offensive, obscene, defamatory, misleading, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, homophobic, infringes copyright, constitutes a contempt of the Council, the Mayor or Councillors or any Council staff or is otherwise unlawful when engaging via social media, media releases or other electronic communication.*
- *Not using the identity or likeness of another employee, contractor or other Councillor in a disparaging manner when engaging via social media, media releases or other electronic communication.*
- *Not posting material that is, or might be construed as threatening, harassing, bullying or discriminatory towards a Councillor, employee, contractor of the Council or member of the community when engaging via social media, media releases or other electronic communication.*
- *Ensuring that a Councillor's social media account is not used to host or spread hateful remarks about another Councillor, the Mayor, Council or Council staff*
- *Councillors will endeavour to consider 'public perception'; not only compliance*
- *Respecting the sometimes sensitive nature of information provided to Councillors for the purposes in acting in the role of a Councillor*
- *Not making any comments verbally, in writing, via social media, media releases or other electronic communication that might otherwise cause damage to the Council's reputation or bring it into disrepute.*
- *Not using Council resources or facilities for any purpose other than the role of Councillor*
- *Not using the role of Councillor to obtain advantage for ourselves or others*
- *Reflecting on whether Councillors are obscuring or being "economical with the truth"*
- *Not using or disclosing any confidential information obtained in our capacity as Councillors, especially information from confidential meetings, briefings or reports when engaging via social media, media releases or other electronic communication.*
- *Showing through actions that Councillors understand the impact they have on others*
- *Considering the impact on Council's reputation and each other of what Councillors say and do*
- *Respecting confidentiality when matters are considered in camera or matters which are confidential under the Act*



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## **Chapter 3**

# **Overarching Governance Principles**

## **1 Purpose**

Section 9 of the *Local Government Act 2020* outlines a list of overarching governance principles a Council must give effect to in the performance of its role.

## **2 Overarching Governance Principles**

- (1) A Council must in the performance of its role give effect to the overarching governance principles.
- (2) The following are the overarching governance principles –
  - (a) *Council decision 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 out Council and Government 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 decision, actions and information is to be ensured.*
- (3) In giving effect to the overarching governance principles, a Council must take into account the following supporting principles –
  - (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.*

## **3 Commitment statement**

As Councillors, we understand the importance of these principles and our responsibility in acting in accordance with these principles.



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## **Chapter 4**

# **Standards of Conduct**

## **1 Purpose**

Section 139 of the Local Government Act stipulates the purpose of the Councillor Code of Conduct is to include the standards of conduct expected to be served by Councillors in the course of performing their duties and functions as Councillors.

## **2 Standards of Conduct**

### **2.1 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.

### **2.2 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.

### **2.3 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 expenses policy 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.

#### **2.4 Councillor must not discredit or mislead Council or public**

- 1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
- 2) 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.

#### **2.5 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.



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## **Chapter 5**

# **Interpersonal Dispute Resolution Procedure**

## **1. Purpose**

As Councillors we are committed to abiding by the internal resolution procedure contained in this Chapter to ensure that we can resolve differences respectfully and expeditiously.

## **2. Scope**

This section applies to interpersonal disputes where personal differences between Councillors arise that may affect the operation of the Council.

This section does not apply for matters which constitute an alleged breach of the Standards of Conduct or any form of alleged misconduct under the Act.

This section does not apply to disputes relating to apparent offences under the Act, which should be referred to the Minister for Local Government or a relevant investigative body.

This section does not intend to resolve differences in policy or decision making, which are appropriately resolved through debate and voting at Council and Special Committee meetings.

Nor does this section apply to disputes between Councillors and Council staff.

An application for an internal dispute resolution cannot be made during the election period for a general election. Internal resolution procedures which are in progress are to be suspended for the duration of the election period and may only resume if all parties to the matter are re-elected. An application cannot be resumed if there are multiple parties involved and not all of the parties have been re-elected. However, if the applicant still wishes to pursue the matter, a new application must be submitted to the Councillor Conduct Officer (CCO) against only those respondents that have been re-elected.

Finally, this section does not apply to disputes between Councillors and members of the public. (Refer to Chapter 6.)

## **3. Interpersonal Dispute Resolution Procedure**

**3.1** Where an interpersonal dispute arises between Councillors, at first instance Councillors will endeavour to informally resolve the dispute between or among themselves or, if mutually agreed, with the assistance of the Mayor.

**3.2** Where an interpersonal dispute cannot be resolved informally by the parties concerned, a request may be made for the dispute to be referred to external mediation. Requests should be made in writing to the CCO and must specify:

- a) the parties involved in the dispute;
- b) the particulars of the dispute; and
- c) whether an attempt has been made to informally resolve the dispute.

**3.3** Upon receipt of the request for external mediation the CCO must, in confidence, notify the other party to the dispute, the Chief Executive Officer and the Mayor.

The CCO must ascertain whether the other party to the interpersonal dispute is willing to attend an external mediation. If the other party declines to participate,

he/she must provide reasons in writing to the CCO who will provide a copy to the party who requested the mediation. Once received, the CCO is not required to take any further action.

If the other party to the interpersonal dispute agrees to attend external mediation, the CCO must select an external mediator by seeking recommendations of mediators from a legal firm on Council's legal service provider panel.

**3.4** The CCO will select a mediator based on his/her satisfaction that the mediator meets the following criteria:

- a) The mediator is suitably independent;
- b) The mediator is suitably qualified; and
- c) The mediator has relevant experience.

The CCO will notify the parties involved in writing of the name of the selected mediator.

**3.5** The mediation must take place no later than 30 days after the request for mediation is made. The parties in attending the mediation must use their best endeavours to resolve the dispute and act with good faith and respect towards each other.

**3.6** Where resolution is reached by mediation, the mediator is to document any agreement reached and provide copies to both parties. Upon receipt of this agreement, the matter is considered closed and cannot be the subject of a further complaint.

**3.7** Where a resolution cannot be reached by mediation, the parties have the option of undertaking one further mediation process on the matter and the process contained in clauses 3.2, 3.3, 3.4, 3.5 and 3.6 must be followed again. In the event that a resolution is still not reached, and the grievance does not also constitute an alleged breach of the Standards of Conduct contained in Chapter 4, the matter is considered closed and Councillors will endeavour to continue to undertake their role in accordance with this Councillor Code of Conduct and legislative requirements in a professional manner and in the best interests of the community.



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## **Chapter 6**

# **Complaints from the Public**

## **1. Purpose**

This Chapter outlines the process for dealing with complaints from the public in respect of the conduct of a Councillor.

## **2. Complaints**

- 2.1** Where a complaint is received from the public in respect to the conduct of a Councillor against the Councillor Code of Conduct, the complaint will be conveyed to the Mayor and the named Councillor for their consideration.
- 2.2** Where the Mayor believes the complaint relates to a breach of the Councillor Code of Conduct, the Mayor can progress the matter his/herself via the internal resolution procedure for interpersonal disputes contained in Chapter 5.
- 2.3** Members of the public and the Councillor/s concerned will be notified in writing of the process followed and the outcome of their complaint by the Mayor.
- 2.4** The outcome communicated by the Mayor is final and is not subject to an appeals process. However, members of the public will be advised of their right to escalate complaints to external integrity bodies such as:
  - The Local Government Investigations and Compliance Inspectorate
  - The Independent Broad-Based Anti-Corruption Commission (IBAC)
  - The Victorian Ombudsman
  - The Minister for Local Government
- 2.5** Council staff will not assess or investigate any such complaint. If the complaint involves a potential public interest disclosure, it will be dealt in accordance with the Public Interest Disclosures Act 2012 (Vic).



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## **Chapter 7**

# **Conflict of Interest**

## 1. Purpose

This Chapter outlines Councillors duties and responsibilities regarding conflicts of interest.

## 2. Conflict of Interest

Under Division 2 of Part 6 of the Act Councillors are required to declare and manage conflicts of interest. The Act stipulates two types of conflict of interest:

A relevant person has a **general conflict of interest** in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A relevant person has a **material conflict of interest** in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

The Act contains specific requirements pertaining to conflicts of interest. We as Councillors commit to abide by these requirements and acknowledge that ultimate responsibility for appropriate disclosure and management of conflicts of interest rests with each individual Councillor.

To further strengthen Councillors' commitment to integrity in the disclosure and management of conflicts of interest the following conflict of interest principles will also apply to Councillors.

The principles adopted by Council raise the level of diligence required in managing issues related to conflicts of interest.

In relation to conflict of interest:

- Councillors are to disclose any conflicts of interest at meetings prescribed under Chapter 5 of the Governance Rules in the manner prescribed by Chapter 5 of the Governance Rules.
- Conflicts of interest provisions apply to Council Meetings, Councillor briefings, delegated committee meetings, community asset committee meetings and any meetings conducted under the auspices of Council.
- Where a Councillor declares a conflict of interest, they must announce to those present they have a conflict of interest in the matter and leave the meeting immediately prior to the matter being discussed and not return until the matter has been disposed of.
- Councillors are to be aware of their responsibilities relating to gifts, membership, donations etc. in relation to conflict of interest within the legislative and policy context and environment for the Council.



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## **Chapter 9**

# **Councillor Declaration**

**Declaration**

Following adoption of this Councillor Code of Conduct by Council, each Councillor will make a written declaration stating that they will abide by the Councillor Code of Conduct and the City of Kingston Councillor Values. This declaration must be witnessed by the Chief Executive Officer.

This Code of Conduct was adopted by the Council on 22 February 2021 and I declare that I will abide by this Councillor Code of Conduct.

*T. S. Bearsley*

22/3/21

*Paul Franklin*

Cr Tamsin Bearsley

Date

Paul Franklin, Acting CEO, Witness

*Timothy Cochrane*

22/3/21

*Paul Franklin*

Cr Timothy Cochrane

Date

Paul Franklin, Acting CEO, Witness

*Jenna Davéy - Burns*

22/3/21

*Paul Franklin*

Cr Jenna Davéy - Burns

Date

Paul Franklin, Acting CEO, Witness

*Tracey Davies*

22/3/21

*Paul Franklin*

Cr Tracey Davies

Date

Paul Franklin, Acting CEO, Witness

*David Eden*

22/3/21

*Paul Franklin*

Cr David Eden

Date

Paul Franklin, Acting CEO, Witness

*Christopher Hill*

22/03/21

*Paul Franklin*

Cr Christopher Hill

Date

Paul Franklin, Acting CEO, Witness

*Cameron Howe*

22/3/21

*Paul Franklin*

Cr Cameron Howe

Date

Paul Franklin, Acting CEO, Witness

*George Hua*

22/3/21

*Paul Franklin*

Cr George Hua

Date

Paul Franklin, Acting CEO, Witness

*Georgina Oxley*

22/3/21

*Paul Franklin*

Cr Georgina Oxley

Date

Paul Franklin, Acting CEO, Witness

*Hadi Saab*

22/03/21

*Paul Franklin*

Cr Hadi Saab

Date

Paul Franklin, Acting CEO, Witness

*Steve Staikos*

22/03/21

*Paul Franklin*

Cr Steve Staikos

Date

Paul Franklin, Acting CEO, Witness