

1. Purpose

This Internal Resolution Procedure (**Procedure**) is adopted in accordance with section 140 of the *Local Government Act 2020 (Act)* and regulation 12A of the *Local Government (Governance and Integrity) Regulations 2020*.

This procedure will be observed when dealing with alleged breaches of the [Model Councillor Code of Conduct](#).

2. Internal Resolution Procedure

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.

The stages of this procedure must be completed within 80 days of the date of the alleged misconduct, unless extenuating circumstances arise. This will allow for an application for a finding of misconduct to the Principal Councillor Conduct Registrar (PCCR) to be made within the three-month deadline, in accordance with section 143 of the Act should an attempt at internal resolution be unsuccessful.

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.

3. First Stage of Internal Resolution Procedure – 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 may seek advice from the Mayor regarding this first stage of internal resolution.

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 (e.g. "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.

4. Second Stage of Internal Resolution Procedure – 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 or the second stage of this Procedure is conciliation.

4.1 Initiating conciliation

A Complainant initiating conciliation must notify the Mayor and the Respondent of the dispute by completing a **Conciliation Application Form**. Where the dispute includes the Mayor, the request should instead be submitted to the Chief Executive Officer. The 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 (e.g. records of conversation, screenshots or emails); and
- (e) be dated and signed by the Complainant.

4.2 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.

Conciliation can take various forms, including in-person meetings, online meetings, separate discussions with each party or another method agreed upon by all involved.

A Respondent declining to participate in the conciliation must advise the Complainant and the Conciliator 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.

4.3 Conduct of conciliation

The role of the Conciliator 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 Conciliator 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 Conciliator must be performed by a Councillor jointly chosen for the purpose by the parties.

When, in this Procedure, reference is made to the Conciliator it includes:

- (a) The Mayor, or
- (b) the Deputy Mayor; or

- (c) 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.

4.4 Roles and responsibilities

The role of the Conciliator 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 Conciliator with the administrative support necessary to arrange and conduct the conciliation.

4.5 Support from the Shire

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

The Shire 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.

4.6 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 Conciliator 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 where extenuating circumstances exist or 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.

4.7 Confidentiality

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

4.8 Record of outcome

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

The Conciliator must specify if any matters are to be shared with the broader Councillor group (e.g., if the outcome includes a change of practice).

5. Third stage of Internal Resolution Procedure – External Mediation

Where a conciliation process has been performed and not been successful in resolving the dispute, a request to engage an external mediator may be made.

5.1 Initiating an external mediator

A request for external mediation may be submitted to the Councillor Conduct Officer—via the Mayor and with awareness of the parties involved—by completing the External Mediation Application Form (Attachment 2). Where the dispute includes the Mayor, the request should instead be submitted via the Chief Executive Officer.

This form must:

- (a) specify the names of the Complainant and Respondent; and
- (b) specify the provision (or provisions) of the Model Councillor Code of Conduct alleged to have been breached; and
- (c) detail what was said or done by the Respondent to constitute a breach of the Model Councillor Code of Conduct; and
- (d) detail dispute resolution processes attempted and the reasons why an external mediator is requested; and
- (e) attach any supporting information to provide examples of the behaviour complained of (e.g. records of conversations, screenshots or emails); and
- (f) be dated and signed by the Mayor or CEO

The Councillor Conduct Officer will receive the form and, in confidence, confirm receipt of the request to the parties of the dispute and the Chief Executive Officer, copying in the Mayor.

5.2 Participating in external mediation

The Councillor Conduct Officer must confirm in writing whether the parties to the dispute are willing to attend an external mediation.

If the other party declines to participate, reasons must be provided in writing to the Councillor Conduct Officer who will provide a copy to the parties and the Mayor. Once received, the Councillor Conduct Officer is not required to take any further action.

5.3 Engaging an external mediator

If the parties confirm participation to an external mediation to the dispute, the Councillor Conduct Officer will recommend an external mediator from Council's panel. The parties and/or Mayor may also suggest a suitable mediator for consideration.

Engagement of an external mediator must comply with Council's procurement policy. Council will cover the cost of the external mediator.

5.4 Roles and responsibilities

The role of the external mediator 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 Mayor must be in attendance unless personally involved, in which case the CEO will attend. The participatory role will be directed by the external mediator.

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. Councillors are responsible for always conducting themselves in a courteous and respectful manner during the conciliation.

The role of the Councillor Conduct Officer is to provide the external mediator with the administrative support necessary to arrange and conduct the external mediation.

5.5 Terms of Engagement

Throughout the external mediation process, the parties are required to maintain confidentiality, act with good will and integrity and uphold the standards as outlined in the Model Councillor Code of Conduct. A Terms of Engagement Form (see attachment 4) will be presented to all parties and the Mayor or CEO to sign before the process of external mediation commences.

5.6 Support from the Shire

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

The Shire 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.

5.7 End or termination of external mediation

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

- (a) The parties cannot jointly agree on an external mediator to conduct the mediation process within one week of being asked to do so.
- (b) the Respondent notifies the Councillor Conduct Officer that they do not wish to participate in external mediation and the reasons for it, based on adverse health or wellbeing or safety concerns, within one week of receiving the External Mediation Application Form;
- (c) the Respondent does not respond to the Councillor Conduct Officer to confirm participation at all within two weeks of receiving it.
- (d) mediation has not occurred within four weeks of the Complainant submitting the Conciliation Application Form.
- (e) mediation has occurred and the parties have been unable to resolve the dispute; or
- (f) the dispute has been resolved.

The time for mediation 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.

6. 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.

7. 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.

Although participation in informal resolution processes under this Procedure is not mandatory, the Principal Councillor Conduct Registrar (PCCR) may reject an application if it does not demonstrate that reasonable steps were taken to resolve the matter informally or provide adequate reasons for not doing so. The PCCR may also exercise discretion to reject an application or refer a matter back

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to Council where it is satisfied that the matter has been, is being, or would be more appropriately dealt with by the Council.

Related Documents and Resources

Legislation

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020

Model Councillor Code of Conduct 2024

External Documents

[Local Government Victoria: Councillor conduct framework](#)

[Local Government Victoria: Fact Sheet: Internal Arbitration Process - November 2024](#)

Document Version Control				
Version	Section	Revision Description	Date Revised	Approved by

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Attachment 1 Conciliation Application Form

(to be completed by the Complainant to initiate conciliation in the event of a dispute between Councillors)

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

Signed by

on

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Attachment 2 External Mediation Application Form

(to be completed by the Complainant to initiate external mediation should conciliation be unsuccessful)

Complainant:	
Respondent:	
Provisions of Model Councillor Code of Conduct breached:	
Action constituting breach:	
Previous Dispute Resolution Processes:	

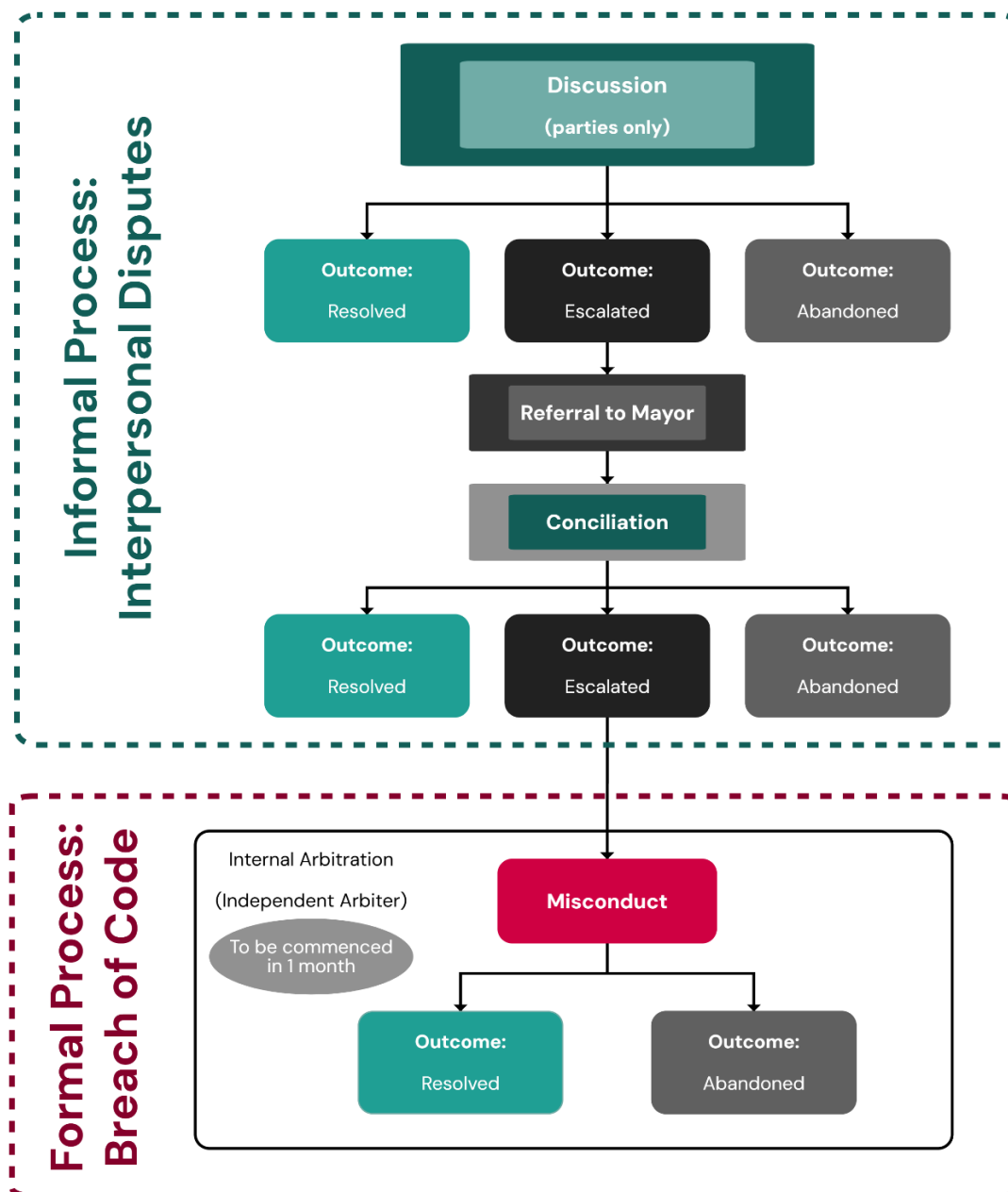
(Include dates, times and detailed descriptions of the action complained of. Attach further documents as necessary.)

(Detail dispute resolution processes attempted and the reasons why an external mediator is requested)

Signed by

on

Attachment 3 Internal Resolution Procedure Flowchart



Attachment 4

Terms of Engagement for Councillors in Conciliation or External Mediation Processes

1. Purpose

These Terms of Engagement outline the expectations and commitments for Councillors participating in a conciliation or external mediation process regarding an alleged breach of the Model Councillor Code of Conduct.

2. Confidentiality

All parties agree to maintain strict confidentiality regarding all discussions, documents, and outcomes related to the conciliation or mediation process. Information disclosed during the process must not be shared with any external party unless required by law or as agreed by all parties and the Mayor and/or Conciliator.

3. Good Faith and Integrity

Councillors commit to engaging in the process with honesty, respect and integrity. Participants will make genuine efforts to resolve the matter in a constructive and cooperative manner, free from hostility or undue influence.

4. Adherence to the Model Councillor Code of Conduct

All Councillors agree to uphold the principles and standards outlined in the Model Councillor Code of Conduct throughout the process.

5. Voluntary Participation and Commitment to the Process

Participation in the conciliation or mediation process is voluntary. However, once engaged, all Councillors agree to fully participate, comply with procedural requirements, and consider proposed resolutions in good faith.

6. Non-Retaliation

Councillors must not engage in any form of retaliation against any party involved or the Conciliator in the conciliation or mediation process, regardless of the outcome.

7. Acknowledgment and Agreement

By signing below, I acknowledge that I have read, understood, and agree to abide by these Terms of Engagement for the duration of the conciliation or external mediation process.

Name: _____

Signature: _____

Date: _____