

# DRAFT Councillor Code of Conduct 2021

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## Introduction

Bass Coast Shire Councillors are committed to working together to deliver positive outcomes for the community as they work towards achieving the vision for Bass Coast Shire.

The Councillor Code of Conduct sets out the high standards of conduct and behaviour to be maintained by Councillors, including the prescribed standards required by the *Local Government Act 2020*, and provides guidance in the event of any Councillor breach of the Code of Conduct. It also supports a good working relationship between Councillors and between Councillors and Council officers.

## Key Roles and responsibilities

Understanding the different roles within Council, and how they work together, is an important factor in achieving good governance. The key roles are listed below:

### Role of Council

Section 8 of the *Local Government Act 2020* states that the role of Council is to:

*“...provide good governance in its municipal district for the benefit and wellbeing of the municipal community”.*

In performing its role, Council must also give effect to the overarching governance principles as follows:

- (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.*

### **Role of Mayor**

The Mayor is the elected leader of the Council and is also Council's key spokesperson and formal representative of Council. The Act outlines the key functions of the Mayor as follows:

- (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 is pivotal in fostering good relationships with various stakeholders, including government agencies and peak bodies, as well as promoting a positive image of Council and supporting a positive organisational culture.

### **Role of Deputy Mayor**

The Deputy Mayor is also elected by Council and plays a key role in supporting the Mayor. In the absence of the Mayor, the Deputy Mayor must perform all the functions of the Mayor.

### **Role of Councillors**

Councillors act as community representatives and advocates; they strategically plan for the future, progress ideas and seek to address issues of importance within the municipality.

The *Local Government Act 2020* states that the role of a Councillor is:

- (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 their role Councillors must:

- (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.*

More specifically, the Councillors' role and responsibilities include:

- Representing the best interests of the whole Bass Coast Shire community, with decision making power exercised collaboratively;
- Facilitating community participation;
- Managing the relationship with, and employment of, and performance of the Chief Executive Officer (CEO);
- Council's governance, including the establishment of committees;
- Oversight of business and affairs of Council including:
  - Strategically planning for the whole of Bass Coast Shire and a sustainable future;
  - Establishing and approving strategies and financial objectives via the Council Plan;
  - Determining financial strategy and allocating resources via the Council budget and Financial Plan; and
  - Approving capital management, capital expenditure and asset acquisition/divestment
- Overseeing the establishment of risk management systems, financial policies, and financial and non-financial key performance indicators;
- Liaising with other levels of government, non-government organisations, community groups and the private sector; and
- Advocating on a broad range of issues.

### **Role of the Chief Executive Officer (CEO)**

The CEO is responsible for the operational arm of Council, including establishing an organisational structure, all staffing matters as well as managing interactions between Council officers and Councillors.

The Act sets out the functions of the CEO as follows:

- (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.*
- (2) Without limiting the generality of subsection (1)(a), 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**.*

### **Councillor relationship with Council staff**

A good working relationship between Councillors and Council officers is important in creating a strong workplace culture, as well as efficiently and effectively achieving positive community outcomes.

Council's Working Together Policy provides guidance to Councillors in requesting information or support from officers.

Councillors will not seek to improperly influence or direct Council officers in the exercise of their duties as set out in Section 123 of the Local Government Act 2020

### **Councillor Commitment**

As an elected representative of the community charged with decision making for the Bass Coast Shire Council, I am committed to undertaking the duties and responsibilities of my office by working together with my fellow Councillors and Council officers in a respectful and constructive manner to achieve the goals and vision for our city.

This Code sets out my commitment to my fellow Councillors and the community to govern the city in a manner which accords with the expressed standards.

By signing below, I declare to my fellow Councillors and to the community that I have read, understood and will abide by this Code of Conduct.

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### **Standards of Conduct**

Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020* sets out the standards of conduct that must be followed by all Councillors.

#### **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.*

### **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.

### **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.

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.

### **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.

### **Legislative Obligations**

In addition to the prescribed roles and responsibilities and standards of conduct, Councillors also have a range of legislative obligations to guide their conduct and actions. Part 6 of the Local Government Act 2020 is focussed on Council integrity and sets out Councillor requirements regarding:

- Misuse of position
- Directing a member of Council staff
- Confidential Information

- Conflict of Interest
- Personal Interest Returns, and
- Gifts

### **Conflict and Dispute Resolution**

Dispute resolution processes are not designed to resolve differences in policy or decision making, such issues are appropriately resolved through discussion, debate and voting at Council meetings.

#### ***Disputes between Councillors***

There are three options for resolving disputes between Councillors:

- *Self-Resolution (optional)*  
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 in the first instance.
- *Mediation (optional)*  
A Councillor or a group of Councillors may make an application for a dispute to be referred for external mediation.
- *Internal Resolution Procedure by Independent Arbiter (Mandatory)*

The Internal Arbitration Process applies to any breach of the prescribed standards of conduct.

An arbiter may hear an application that alleges misconduct by a Councillor.

An application for an internal arbitration process may be made by Council following a resolution of Council or by an individual Councillor or group of Councillors.

The application must be made within three months of the alleged misconduct occurring.

Applications must be given to the Principal Councillor Conduct Registrar and specify:

- The name of the Councillor alleged to have breached the standards of conduct
- The clause of the standards of conduct that the Councillor is alleged to have breached, and
- The misconduct that the Councillor is alleged to have engaged in that resulted in the breach.

Where an application for Internal Arbitration has been made to the Principal Councillor Conduct Registrar, the Councillor Conduct Officer provides the application to the Councillor who is the subject of the application.

#### ***Disputes between Councillors and Members of the Public***

Disputes between Councillors and members of the public will be handled in accordance with Council's Complaints Handling Policy. Community members may also lodge a complaint directly with the Victorian Ombudsman.

**Disputes between Councillors and Staff**

The CEO has sole responsibility for the management of Council staff. In the event of a dispute between a Councillor and a member of Council staff, it must be brought to the immediate attention of the Chief Executive Officer who will investigate the dispute.

**Personal Dealings with Council**

When Bass Coast Shire Councillors deal with Council in a private capacity (e.g. as a ratepayer, recipient of Council service or applicant for a permit) they do not expect, nor will they request, preferential treatment in relation to any such private matter. They will avoid any action that could lead to Council staff or members of the public to believe that they are seeking preferential treatment.

**Additional documents**

Working Together Policy.

**Reference to other documents**

*Local Government Act 2020*

*Local Government (Governance and Integrity Regulations) 2020*

**Review process**

The Councillor Code of Conduct will be reviewed within four months of a general election as required by the *Local Government Act 2020*. Council may also choose to review and update the Councillor Code of Conduct at any other time within the four year term.

**Approval**

Adopted by Council at its meeting held on	Date ...../...../.....
Signed by the Mayor (Name).....	
.....	Date ...../...../.....