



KINGBOROUGH COUNCIL

COUNCIL POLICY

Policy Manual No. 1.8

CODE OF CONDUCT

PART 1 BACKGROUND

Adoption of Code of Conduct

This Code of Conduct was adopted by the Kingborough Council at its meeting on 22nd May 2006.

Introduction

The Kingborough Council is the elected body responsible for the peace, order and good government of the Kingborough municipal area in accordance with the *Local Government Act 1993*.

The Councillors identify their primary responsibility to be to their local community, which has placed its trust in the Councillors by electing them to office.

The Kingborough community is entitled to expect that the business of Council will be conducted-

- with efficiency, impartiality, honesty and integrity;
- within the spirit and letter of all relevant laws; and
- in the best interests of the community.

This Code of Conduct is a statement of the standard of behaviour that Councillors have agreed should be demonstrated, and which the community can expect to be demonstrated, when they are carrying out their roles and functions.

This code:

- gives a clear understanding of how Councillors will behave in their dealing with each other, council employees and members of the community;
- provides a practical means of identifying and resolving situations which may face Councillors in carrying out their roles and functions;
- promotes fair, objective, transparent and informed decision-making by the Councillors, ensuring that public interest will always have priority over Councillors' private interests.

Each Councillor is aware of their responsibility to comply with the Code of Conduct as required by section 28E(4) of the *Local Government Act 1993*. The Code of Conduct requires the Councillors to:

- act honestly;
- exercise reasonable care and diligence;

- not make improper use of their position
 - to gain, or attempt to gain, directly or indirectly, an advantage for themselves or for any other person, or
 - to cause, or attempt to cause, damage to the Council;
- not make improper use of information acquired because of their position
 - to gain, or attempt to gain, directly or indirectly, an advantage for themselves or for any other person, or
 - to cause, or attempt to cause, damage to the Council;
- ensure that they act with dignity and propriety when representing the Council in the position of Councillor.

Application of Code

This Code of Conduct applies whenever the Councillor-

- conducts Council business, whether at or outside a meeting;
- conducts the business of the office- that may be Mayor, Deputy Mayor or Councillor; or
- acts as a representative of the Council.

Legislative requirements

This Code of Conduct is intended to fulfill the requirements of section 28E of the *Local Government Act 1993*.

Principles and Explanations

This Code of Conduct contains 12 Principles that are set out in tabular form. Each Principle is supported by an Explanation which is intended to provide additional information on the Principle.

The Principles and their supporting Explanations gives a clear understanding of how Councillors will behave in interacting with each other, Council employees and the local community.

Making a complaint

By virtue of section 28F (1) of the Local Government Act 1993, a person may make a complaint to a council in relation to an alleged failure of a Councillor to comply with any provision of the code of conduct.

It is of vital importance that the Councillors are not only provided with guidance as to acceptable behaviour, but that they know if and when they have breached the Code of Conduct. Breaches of the Code of Conduct are therefore clearly defined.

A breach is a failure of a Councillor to comply with a provision of the Code of Conduct. A complaint may only be lodged in respect of a breach.

There are breaches prescribed in the Code of Conduct in respect of some of the Principles, but not all of them.

A complaint must:

- be in writing;
- be lodged with the Mayor (or Deputy Mayor if the complaint relates to the Mayor);
- be lodged within 90 days after the alleged breach;
- contain full particulars of the alleged breach;
- identify both the Councillor and the person making the complaint; and
- be accompanied by the prescribed fee.

In any hearing of a complaint, the Council's Code of Conduct Panel or the Standards Panel may take into account any or all of the Principles and the supporting Explanations, but failure to comply with a Principle is not in itself a basis for a complaint.

Relevant legislation

The Code of Conduct operates within the framework of the *Local Government Act 1993*, the *Local Government (General) Regulations 2005* and the *Local Government (Meeting Procedures) Regulations 2005*. Under the heading "Relevant legislation", references are made to related legislative provisions in that Act and Regulations.

It is important to note that by virtue of section 27 of the Act, the Mayor is required to oversee the Councillors in the performance of their functions and in the exercise of their powers. This means that a potential complainant has the opportunity to complain to the Mayor about particular conduct rather than taking the more formal step of lodging a complaint for the consideration of the Code of Conduct Panel.

A complaint of an alleged offence under the *Local Government Act 1993*, the *Local Government (General) Regulations 2005* or the *Local Government (Meeting Procedures) Regulations 2005* is not an alleged breach of the Code and therefore cannot be dealt with under the Code of Conduct.

Such a complaint should be referred to the Director of Local Government who has investigative and other powers in this regard to deal with such complaints.

If, in the rare event, a complaint is made involving an alleged crime or an offence under the *Criminal Code Act 1924* or the *Police Offences Act 1935*, such as assault or stealing, the matter must be referred to Tasmania Police.

If a complaint of an offence has been referred to the Director of Local Government or Tasmania Police and a decision is made either authority not to prosecute in respect of the complaint, a person may make a complaint relating to the same matter to the Code of Conduct Panel, provided the complaint is lodged within 90 days after the alleged failure to comply with the Code of Conduct.

Legal Advice

Council may authorise the Code of Conduct Panel to seek legal advice in respect of the proceedings of the Panel or in respect of particular complaint lodged with the Panel. If the legal advice relates to a complaint, the Panel is to provide that advice to both the complainant and the respondent Councillor.

On application, Council will determine whether the complainant/respondent will have access to legal advice at Council's expense.

Interpretation

In this Code of Conduct, unless the contrary intention appears, -

"Code of Conduct Panel" means the Code of Conduct Panel established by the Council under section 28G of the *Local Government Act 1993*;

"Council" means the Kingborough Council;

“Councillor” means a councillor elected to the Kingborough Council and includes the Mayor and Deputy Mayor;

"council workshop" means a workshop, seminar or meeting, other than a meeting that is conducted by or on behalf of the council for the councillors;

"General Manager" means the person appointed as such to the Kingborough Council pursuant to section 61 of the *Local Government Act 1993*;

“Standards Panel” means the Standards Panel established by the Local Government Association of Tasmania under section 28H of the *Local Government Act 1993*.

PART 2

PRINCIPLES AND BREACHES

Principle 1	A Councillor should uphold the Code of Conduct and the law and, on all occasions, act in accordance with the trust the community places in that Councillor.
Explanation	<p><u>Duty to promote Code</u> The Councillors have been elected to office by the electors of the Council's municipal area in the expectation that they will discharge their responsibilities in a highly professional and honest manner.</p> <p>Each Councillor has a duty to promote and support the Code of Conduct by leadership and example, always acting in the best interests of the whole community and in such a way as to preserve public confidence in the Council.</p> <p>Obviously, if a Council is reviewing its Code of Conduct, it is permissible in that context for a Councillor to make constructive criticisms of the Code.</p> <p><u>Community leadership- providing an example.</u> A Councillor has a duty to promote and support the Code of Conduct principles by leadership and example so as to maintain and strengthen the public's trust and confidence in the integrity of the Council.</p> <p>This means-</p> <ul style="list-style-type: none">• obeying the law;• following the letter and spirit of policies and procedures;• observing rules of conduct;• fully disclosing actual or potential conflicts of interests and exercising any conferred power strictly for the purpose for which power was conferred. <p><u>Uphold the law</u> A Councillor is to not only comply with the law generally but also uphold the Code of Conduct. This means not only personally complying with the law and the Code of Conduct, but also monitoring the performance of other Councillors and where necessary lodging a complaint in respect of an alleged breach of the Code of Conduct, or possibly making a complaint to the Director of Local Government or Tasmania Police in respect of an alleged offence or crime.</p> <p>By virtue of section 27 of the Act, the Mayor is required to oversee the councillors in the performance of their functions and in the exercise of their powers. If the breach of the Code of Conduct is of a minor nature, the potential complainant could refer the matter to the Mayor, rather than taking the major step of making a formal complaint under the Code of Conduct.</p>

Explanation (cont)	<p>Making a complaint is a serious matter and therefore a potential complainant should be very sure of the facts before lodging a complaint.</p> <p>The lodging of a complaint may lead to additional tension within Council. There is a duty on each of the Councillors to uphold the Code of Conduct and no Councillor who lodges a complaint should be victimised.</p> <p>Nor should the Code of Conduct be used to attack or undermine opponents unfairly. There is a capacity in the Code to deal with a Councillor who makes a frivolous, vexatious or malicious complaint.</p>
Breaches	<p>It is a failure to comply with the Code of Conduct if a Councillor makes statements or otherwise acts in a manner that undermines or brings into disrepute the Council's Code of Conduct or the procedures for dealing with complaints of breaches of the Code.</p> <p>It is a failure to comply with the Code of Conduct if a Councillor alleges either publicly or at a Council or Council Committee meeting that there has been an alleged failure to comply with the Code of Conduct.</p> <p>It is a failure to comply with the Code of Conduct if a Councillor refers either publicly or at a Council or Council Committee meeting to a complaint that has been lodged or is to be lodged in respect of an alleged failure to comply with the Code of Conduct unless a report has been tabled by the Mayor or Deputy Mayor under regulations 22G, 22K or 22N of the <i>Local Government (General) Regulations 2005</i>.</p> <p>It is a failure to comply with the Code of Conduct if a Councillor victimises another Councillor for having made a complaint.</p> <p>It is a failure to comply with the Code of Conduct if a Councillor makes a frivolous or vexatious complaint.</p>
Relevant legislation	<p><i>Local Government Act 1993-</i> Section 28E- Code of Conduct for councillors <i>Local Government (General) Regulations 2005-</i> Regulation 22B- How to make complaints Regulation 22C- Action to be taken by mayor, &c., on receiving a complaint Regulation 22G- Code of Conduct Panel to report to mayor Regulation 22K- Standards Panel to report to mayor Regulation 22T- Disclosure</p>

Principle 2	A councillor should act in the public interest by serving the interests of the community as a whole.
Explanation	<p><u>Never use office for self-gain</u> A Councillor has a duty to make decisions solely in the public interest. This means making decisions and taking actions because they benefit the public, not because they benefit the decision-maker.</p> <p>As section 339A of the Act provides, it is a misuse of office for the position of Councillor to be used to improperly bestow any financial benefits, preferential treatment or other advantage or disadvantage on others.</p> <p><u>Act in interests of whole community</u> Councillors have a collective duty to assist the Council to act as far as possible in the interests of the community as a whole.</p> <p>The Councillors should serve the interests of the municipal area as a whole and act fairly, never improperly conferring an advantage or disadvantage on any one person, organisation or class of persons or a particular part of the municipal area.</p>
Breaches	Nil
Relevant legislation	Local Government Act 1993- Section 26- Mayors and deputy mayors Section 28- Functions of councillors Section 339A- Misuse of office

<p>Principle 3</p>	<p>A Councillor should act with integrity and propriety and have no conflict of interest.</p>
<p>Explanation</p>	<p><u>Under no obligation to another</u> As section 339A (misuse of office) of the Act provides, a Councillor must not be under any financial or other obligation to any individual or organisation that might reasonably be thought to influence them in the performance of their councillor duties.</p> <p><u>Pecuniary interest</u> Part 5 of the Act relates to pecuniary or financial interests. The interest provisions relate only to Council and Council Committee meetings.</p> <p>Councillors are to acquaint themselves with these provisions as conviction of any of the offences under Part 5 may result in severe penalties.</p> <p>There is a duty under the Code of Conduct for a Councillor to disclose any pecuniary interest in any matter being dealt with at a Council workshop, or at a discussion with the General Manager or other staff member that may lead to a report or recommendation being directed to Council, or the exercise of a delegated authority.</p> <p><u>Conflict of interest</u> A conflict of interest is not directly covered by the Act and it is therefore appropriate for it to be covered under the code of Conduct.</p> <p>A Councillor should determine whether or not he or she has a private or personal interest which is not necessarily financial in character. For example, a friendship, family, membership of or affiliation with a club and the like where a financial gain or loss is not involved. When considering a non-pecuniary interest it is important to look at how others would view the situation.</p> <p>A Councillor should not be in a position where integrity is called into question by any obligation. As well as avoiding actual impropriety, the Councillor should avoid any appearance of it.</p> <p>A Councillor should note that matters before Council for determination that involve campaign donors or supporters have the potential to place the Councillor in a position of having a conflict of interest.</p> <p>A Councillor should declare a conflict of interest at any meeting of the Council or a Council Committee and at any working group or any meeting of an outside body to which he or she is appointed or nominated by the Council. Having made the declaration, a Councillor must make a decision based on the nature of the conflict of interest as to whether or not to remain or leave the room and not return until the matter in which they have made the declaration has been dealt with.</p>

<p>Breaches</p>	<p>It is a failure to comply with the Code of Conduct if, in a matter before a Council workshop or other meeting, not being a Council or Council Committee meeting, which the Councillor attends, a Councillor does not declare at the workshop or meeting he or she has or is likely to have an interest as defined by Part 5 of the <i>Local Government Act 1993</i>.</p> <p>It is a failure to comply with the Code of Conduct if, in a matter before a Council or Council Committee meeting, a Council workshop or other meeting which a Councillor attends, a Councillor does not declare a conflict of interest and the Councillor has an obligation of some kind to an individual or organization or is unduly influenced in relation to that matter.</p> <p>It is a failure to comply with the Code of Conduct if at a discussion with the General Manager or other staff member that may lead to a report or recommendation being directed to Council, or the exercise of a delegated authority, a Councillor does not declare a conflict of interest and the Councillor has an obligation of some kind to an individual or organization or is unduly influenced in relation to that matter.</p> <p>It is a failure to comply with the Code of Conduct if the Councillor does not leave the workshop or meeting while the matter in which he or she has made the declaration of pecuniary has been dealt with.</p>
<p>Relevant legislation</p>	<p><i>Local Government Act 1993</i>- Part 5, Sections 47A-56- Interests, Section 339A- Misuse of office</p>

Principle 4	A Councillor should declare gifts and benefits.
Explanation	<p><u>Acceptance of gifts and benefits</u> A Councillor must be particularly wary of offers of gifts or benefits.</p> <p>Section 339A of the Act prohibits a Councillor making a demand or request any gift, or benefit for themselves or anyone else, in connection with councillor functions. A Councillor must never accept a gift or benefit, whatever the value, if the apparent purpose is to influence the way in which he or she performs councillor functions.</p> <p>The Code of Conduct provides that a Councillor should never accept money, regardless of the amount.</p> <p><u>Register of gifts and benefits</u> The Act does not place a blanket prohibition on Councillors receiving gifts and benefits. However, for the protection of Councillors and in the interests of openness and transparency, a Council should have a register of gifts and benefits maintained by the General Manager for gifts and benefits valued over \$20. Such register is a public document.</p> <p>A Councillor must notify the General Manager of gifts and benefits to the above value or more received in respect of his/her role as Councillor.</p>
Breaches	<p>It is a failure to comply with the Code of Conduct if a Councillor accepts a gift of money.</p> <p>It is a failure to comply with the Code of Conduct if a Councillor fails to notify the General Manager in writing of a gift or benefit to the value of \$20 within 30 days of receipt.</p>
Relevant legislation	<i>Local Government Act 1993-</i> Section 339A- Misuse of office

Principle 5	A Councillor is accountable to the community for his/her actions.
Explanation	<p>One of the fundamental principles underpinning the Local Government Act 1993 is the accountability of a council to its local community.</p> <p>The Councillors are elected by the local community and are collectively accountable to that community for their actions and the manner in which they carry out their responsibilities.</p> <p>Subject to requirements of confidentiality under the Act, every Councillor should cooperate fully and honestly with the scrutiny appropriate to their particular office. This scrutiny may be carried out formally by the Local Government Board, by a Board of Inquiry, by or on behalf of the Director of Local Government, or by the Code of Conduct Panel.</p> <p>The scrutiny might also be carried out informally by the media or community groups.</p> <p>In being accountable, a Councillor must exercise any statutory powers and functions strictly for the purposes for which they are granted or conferred. These include any powers or functions delegated to the councillor.</p>
Breaches	Nil
Relevant legislation	<p><i>Local Government Act 1993-</i> Part 12A- Local Government Board Part 13- Inquiries Section 335- Functions and powers of director Section 338- Information</p>

<p>Principle 6</p>	<p>A Councillor should be objective in decision-making and open about reasons for decisions.</p>
<p>Explanation</p>	<p><u>Objective decision-making</u> The Councillors must make decisions solely on merit and in accordance with their statutory obligations when carrying out public business. This includes making appointments, awarding of contracts or recommending individuals for rewards or benefits.</p> <p><u>Take account of all views</u> A Councillor is to take account of the views of others and may very properly be influenced by these views. Ultimately, however, the Councillor must make a decision based on his or her own conclusions on issues and act in accordance with those conclusions. It is the Councillor's individual responsibility to decide what view to take, and how to vote on any question which the Councillors have to decide.</p> <p>It is also important for a Councillor to decide an issue on its merits independent of any personalities involved.</p> <p><u>Duty not to be biased</u> Frequently, the Council acts as a tribunal, making decisions that affect third party rights. Applications for a planning permit or a licence are typical examples. It is important that a Councillor does not make arrive at a final conclusion before all the evidence is submitted. Evidence may not come to light until the Council meeting.</p> <p>A Councillor must therefore be careful about any public pronouncements about support or opposition to an application prior to a decision of Council.</p> <p>A councillor should not suggest prior to a forthcoming Council or Council Committee meeting that he or she has already come to a decision.</p> <p>Formal actions by the Councillors such as signing petitions, making a representation on an application for a planning permit without declaring an interest or being party to legal action against Council in relation to a matter must be avoided.</p> <p><u>Openness- ensure reasons are given</u> Special rules in the Local Government Act 1993 and the Local Government (Meeting Procedures) Regulations 2005 apply in relation to confidentiality of information and documents- see Principle 7.</p>

Explanation (cont)	However, taking account of those rules, there are still opportunities for a Councillor to be open about Council decisions and actions. The Councillor should give reasons for decisions and restrict information only when the wider community interest clearly demands or the Council has determined details remain confidential.
Breaches	It is a failure to comply with the Code of Conduct if a Councillor signs a petition, lodges a representation in relation to an application or takes some similar formal action in relation to a matter yet to be determined by a Council or Council Committee unless the Councillor declares an interest in that matter.
Relevant legislation	<p><i>Local Government Act 1993-</i> Part 5, Sections 47A-56- Interests, Section 339A- Misuse of office</p> <p><i>Local Government (Meeting Procedures) Regulations 2005</i> Regulation 15- Closed meetings Regulation 34- Minutes of closed meeting</p>

<p>Principle 7</p>	<p>A Councillor should only use confidential information for Council purposes and according to the law.</p>
<p>Explanation</p>	<p>It is important that the community has confidence that confidential information acquired by Council is only used for legitimate Council purposes.</p> <p>Councillors should be aware of the provisions in the Local Government Act 1993 that deal comprehensively with confidentiality.</p> <p>It is an offence under the Act to misuse information or to release confidential information without proper authority.</p> <p>The Code of Conduct places a duty on a Councillor not to release personal or commercial in confidence information.</p> <p>There may be information that comes to hand in the everyday role of a Councillor which is of a personal or commercial in confidence nature that has not come from a Council or Council Committee meeting or been provided on request by the General Manager and is therefore not covered by the confidentiality provisions of the Act or Meeting Procedures Regulations.</p> <p>Nevertheless, by its very nature, the Code of Conduct requires this information should be kept confidential unless the Mayor, Council, or General Manager authorizes its release.</p>
<p>Breaches</p>	<p>It is a failure to comply with the Code of Conduct if a Councillor, having acquired as a Councillor information of a personal or commercial in confidence nature, passes that information on to a third party without the authority of the Mayor, Council, or General Manager.</p>
<p>Relevant legislation</p>	<p><i>Local Government Act 1993-</i> Section 28C- Confidential undertaking Section 28D- Documents relating to agendas Section 338A- Disclosure of information Section 339- Improper use of information</p> <p><i>Local Government (Meeting Procedures) Regulations 2005-</i> Regulation 15- Closed meetings Regulation 34- Minutes of closed meeting</p>

Principle 8	A Councillor should exercise prudent stewardship in relation to Council resources.
Explanation	<p>The Councillors have a collective responsibility to ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.</p> <p>This principle applies to services and infrastructure as well as to financial and other resources.</p> <p>As the collective functions of Councillors indicate below, a Councillor should be aware of the Council's major policies and plans, as well as its reporting and auditing obligations in relation to Council resources-</p> <ul style="list-style-type: none"> (a) to develop and monitor the implementation of strategic plans and budgets; (b) to determine and monitor the application of policies, plans and programs for – <ul style="list-style-type: none"> (i) the efficient and effective provision of services and facilities; and (ii) the efficient and effective management of assets; and (iii) the fair and equitable treatment of employees of the council; (c) to facilitate and encourage the planning and development of the municipal area in the best interests of the community; (d) to appoint and monitor the performance of the general manager; (e) to determine and review the council's resource allocation and expenditure activities; (f) to monitor the manner in which services are provided by the council.
Breaches	Nil
Relevant legislation	<p><i>Local Government Act 1993-</i> Section 28- Functions of councillors Part 7- Sections 66-72B- Administration Part 8- Sections 73-85- Financial Management</p>

<p>Principle 9</p>	<p>A Councillor should respect the role of others in the workplace.</p>
<p>Explanation</p>	<p><u>Discrimination</u> A Councillor has a duty under the Code of Conduct not to discriminate directly or indirectly discriminate against another Councillor, Council employee.</p> <p>A Councillor should be aware of the <i>Anti-Discrimination Act 1998</i> which prohibits discrimination on the basis of the following attributes- race, age, sexual orientation, lawful sexual activity, gender, marital status, relationship status, pregnancy, breastfeeding, parental status, family responsibilities, disability, industrial activity, political belief or affiliation, political activity, religious belief or affiliation, religious activity, irrelevant criminal record, irrelevant medical record or association with a person who has, or is believed to have, any of these attributes</p> <p><u>Personal interests</u> A Councillor is not entitled to expect in his/her personal dealings with Council preferential treatment for himself/herself whether as a ratepayer, recipient of a council service or applicant for consent granted by council. Nor must a Councillor seek preferential treatment for any other person or body.</p> <p><u>The Council</u> A Councillor should know the powers and functions of the offices of Mayor, Deputy Mayor, Councillors and the General Manager, all of which are clearly defined in sections 28 and 62 of the <i>Local Government Act 1993</i>.</p> <p>The effective performance of the Council requires a high level of co-operation and mutual respect between the Mayor and Councillors and staff. A Councillor must not perform any function of the Mayor or Deputy Mayor without their authority.</p> <p><u>The Councillors</u> A Councillor should respect the attitudes and views of other Councillors. Although it can be difficult at times, it is important that issues, not personalities, are always the focus of debate.</p> <p>While differences will inevitably arise, particularly at Council and Council Committee meetings, there should be an over-riding respect for one another that enables the Councillors to deal with the most difficult issues without losing the corporate cohesiveness so vital to a successful council.</p> <p>Bullying, intimidation or harassment by Councillors of other Councillors is unacceptable.</p>

<p>Explanation Cont...</p>	<p><u>General Manager and staff</u> Councillors should recognise that the General Manager is the employer (on behalf of Council) of all Council employees, and as such only the General Manager may hire, dismiss or instruct or censure an employee.</p> <p>Councillors should also inform themselves of the obligations that the Council and the General Manager have as employers and observe those requirements at all times.</p> <p>Section 28(3) of the Act prohibits a Councillor directing or attempting to direct an employee of the Council in relation to the discharge of the employee's duties. It is a breach of the Code of Conduct to do so.</p> <p>A Councillor should respect the impartiality and integrity of the Council staff and to behave towards them in a way that engenders mutual respect at all times.</p> <p>To achieve this, a Councillor should treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees) and observe any guidelines that the General Manager puts in place regarding contact with employees.</p> <p>A Councillor must not do anything which compromises, or could be seen as compromising, the impartiality of an employee, and should avoid publicly criticising any employee in any way that reflects on the competence and integrity of the employee.</p> <p><u>Contractors</u> A Councillor must not contact or issue instructions to any of Council's contractors, tenderers, or service providers, including Council's legal advisors.</p> <p><u>The public</u> Councillors are to promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, political belief or disability.</p> <p>Members of the public should be treated with dignity and respect, whatever the nature of their concerns or views may be.</p>
<p>Breaches</p>	<p>It is a failure to comply with the Code of Conduct if a Councillor performs any function of the Mayor or Deputy Mayor without their authority.</p> <p>It is a failure to comply with the Code of Conduct if a Councillor is aggressive, offensive or abusive towards another Councillor, the General Manager, or a Council employee.</p> <p>It is a failure to comply with the Code of Conduct if a Councillor attempts to direct an employee of the Council in relation to the discharge of the employee's duties.</p>

Relevant legislation	<p><i>Local Government Act 1993-</i> Section 28- Functions of councillors- there is a prohibition on a councillor directing employees.</p> <p>Section 339D- Obstruction- A person, without reasonable excuse, must not obstruct or attempt to obstruct an authorised person in the performance or exercise of his or her functions or powers under this Act.</p> <p>Section 340- Interference with records and documents.</p>
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<p>Principle 10</p>	<p>A Councillor must not behave in such a manner as to bring the Council or the offices of Mayor, Deputy Mayor or Councillor, into disrepute.</p>
<p>Explanation</p>	<p>Integrity of Council A Councillor must not behave in a manner which could reasonably be regarded as bringing the Council (including its employees) or the offices of Mayor, Deputy Mayor or Councillor into public disrepute.</p> <p>Meetings It is important that Councillors ensure their punctual attendance at meetings and that, if they are going to miss a meeting, seek leave of absence in accordance with the Local Government Act. Attendance at Council and Council Committee is recorded in the Council's annual report. If a Councillor cannot attend and has not sought leave, the Councillor should forward an apology. Similarly a Councillor should advise the Chairperson in advance if it is expected that they will be delayed from punctually attending a meeting.</p> <p>A Councillor attending a meeting should ensure he or she has read all the agenda papers, discussed, where necessary, any issues with relevant officers and others and considered the recommendations.</p> <p>A Councillor should abide by Council rules when attending Council meetings, including addressing Councillors by title, not digressing from the subject of debate, making personal comments about other Councillors or interrupting proceedings.</p> <p>Dealing with the media Pursuant to the Local Government Act, the Mayor is the spokesperson of the Council. The Mayor may delegate this function to the Deputy Mayor or a Councillor.</p> <p>This does not mean that the Councillors cannot express a particular view. However, a Councillor must report on Council's policies and decisions accurately and clearly distinguish between their personal views and the official position of Council.</p> <p>Petitions A Councillor who has been presented with a petition to Council is required by the <i>Local Government Act 1993</i>, is to –</p> <ul style="list-style-type: none"> (a) table the petition at the next ordinary meeting of the council; or (b) forward it to the general manager within 7 days after receiving it. <p>There is no offence under the Act for failing to do so, but it is a breach of the Code of Conduct not to comply with the Act.</p>

<p>Breaches</p>	<p>It is a failure to comply with the Code of Conduct if a Councillor in an official capacity, or any other circumstance, behaves in a manner which could reasonably be regarded as bringing into public disrepute the Council, including its employees, or the offices of Mayor, Deputy Mayor or Councillors..</p> <p>It is a failure to comply with the Code of Conduct if, during a Council or Council Committee meeting, a Councillor continues to behave in a manner contrary to the Council's meeting rules after being directed by the Chairperson at that meeting or at a Council or Council Committee meeting not to continue that behaviour.</p> <p>It is a failure to comply with the Code of Conduct if a Councillor acts as the spokesperson of the Council without the delegated authority from the Mayor..</p> <p>It is a failure to comply with the Code of Conduct if a Councillor, when performing the functions of Councillor, substantially misrepresents the policies and decisions of the Council.</p> <p>It is a failure to comply with the Code of Conduct if, as required by the <i>Local Government Act 1993</i>, a Councillor fails to pass the petition on to the General Manager or, if the petition complies with the Act, fails to table that petition at an ordinary meeting of Council.</p>
<p>Relevant legislation</p>	<p><i>Local Government Act 1993-</i> Section 28- Functions of councillors- subsection (4) Section 58- Tabling petition Section 72- Annual report Section 72B- Annual General Meeting Section 339A- Misuse of office Section 339B- Offences relating to petitions</p> <p><i>Local Government (Meeting Procedures) Regulations 2005</i> Regulation 39- Leave of absence Regulation 40- Suspension from meeting</p>

Principle 11	When representing the Council on an outside body, a Councillor should be aware of his/her responsibilities to the Council.
Explanation	<p>Section 28(4) of the Act requires a Councillor to report accurately the policies and decisions of the council in performing the functions of Councillor.</p> <p>A Councillor representing the Council on an outside body should be aware of the Council's policies and decisions in respect of that outside body and accurately present or report on those policies and decisions.</p> <p>Such a Councillor should not be expected to necessarily follow those policies and decisions as a member of an outside body. Even though the Council has appointed the Councillor to the outside body, the Councillor has an obligation to comply with the rules of the organisation which may be to make decisions which are in the best interests of that outside body, rather than the Council. This is especially so if the Councillor is a director and the body is a corporation.</p> <p>A Councillor representing the Council on an outside body should be careful not to make the Council liable financially or otherwise for any action which the Council has not authorised unless, of course, the rules of that outside body allow for such action to be taken and this was known at the time the Councillor was appointed- eg some joint authorities.</p>
Breaches	Nil
Relevant legislation	<i>Local Government Act 1993-</i> Section 28- Functions of Councillors- subsection (4)

Principle 12	A Councillor must not misuse Council facilities or resources.
Explanation	<p><u>Use Council resources wisely</u> A Councillor should use Council property, facilities, and equipment efficiently, economically and carefully.</p> <p>Council resources, equipment, email and internet facilities are provided in the workplace to assist Councillors perform their functions and must only be used by the Councillors for purposes consistent with the carrying out of their functions of office.</p> <p>A Councillor must comply with Council's Information Technology Policy, and Council's policy in relation to the provision of facilities to Councillors. Facilities provided by Council must not be used by a Councillor for significant business or commercial purposes.</p> <p><u>Elections</u> A Councillor should not use Council facilities or resources to influence the way people vote in Local Government elections.</p> <p>A Councillor should ensure that Council resources are not used inappropriately in ways that may influence voting in a Local Government election or provide undue advantage for a candidate.</p> <p>Council logos, letterheads or other Council branding must not be used for, or be linked in any way to, a candidate's election campaign.</p> <p>Reimbursements of Councillors' out-of-pocket expenses during the election period should only apply to costs that have been incurred in performance of normal Council duties and not for expenses that could be perceived as supporting or being connected with the election.</p> <p>Equipment and facilities such as phones, laptops, facsimile machines, etc, provided to Councillors for the purpose of conducting normal Council business must not be used for campaigning purposes. Where it is impractical for Councillors to discontinue their use of these facilities during the election period, Councillors will reimburse Council for the usage of those services in accordance with Council policy.</p> <p>Council e-mail addresses must not be included on campaign material.</p> <p>Information and briefing material prepared by Council staff for Councillors during the election period should relate only to factual matters, existing Council services, or information that would normally be available to the public.</p>

<p>Explanation (cont)</p>	<p><u>Claims for reimbursement</u> A Councillor must not claim reimbursement from the Council of any expense that has not been incurred in the course of performing their duties. A Councillor should claim only for legitimate expenses under the <i>Local Government Act 1993</i> and the <i>Local Government (General) Regulations 2005</i>.</p>
<p>Breaches</p>	<p>It is a failure to comply with the Code of Conduct for a Councillor not to take reasonable care of or to damage or to allow unauthorised use or interference with, any Council equipment, facilities or resources that are intended to be used to assist the Councillors in the discharge of their functions.</p> <p>It is a failure to comply with the Code of Conduct for a Councillor to fail to comply with Council's Information Technology Policy, and Council's policy in relation to the provision of facilities to Councillors.</p> <p>It is a failure to comply with the Code of Conduct for a Councillor to use Council facilities or resources to influence the way electors vote in elections.</p> <p>It is a failure to comply with the Code of Conduct for a Councillor to claim reimbursement from the Council any expense that has not been incurred in the course of performing councillor functions and to which the Councillor is not entitled.</p>
<p>Relevant legislation</p>	<p><i>Local Government Act 1993-</i> Schedule 5- Clause 1- Expenses Schedule 5- Clause 2- Loan of services, facilities and equipment</p>

Adopted by Council 22nd May 2006

Revised 25th February 2008